

ATTACHMENT 1

Transcript of Hearing in TPUC Docket 25673

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1 TRANSCRIPT OF PROCEEDINGS
2 BEFORE THE
3 STATE OFFICE OF ADMINISTRATIVE HEARINGS FOR THE
4 PUBLIC UTILITY COMMISSION OF TEXAS
5 AUSTIN, TEXAS

6 COMPLAINT OF ASAP PAGING, INC)
7 REQUEST FOR EXPEDITED RULING,) SOAH DOCKET NO
8 REQUEST FOR INTERIM RULING,) 473-02-2503
9 AND REQUEST FOR EMERGENCY) PUC DOCKET NO
10 ACTION AGAINST CENTURYTEL OF) 25673
11 SAN MARCOS, INC)

12 HEARING ON INTERIM RULING AND REQUEST FOR
13 EMERGENCY ACTION

14 MONDAY, APRIL 15, 2002

15 BE IT REMEMBERED THAT AT approximately
16 1:40 p.m., on Monday, the 15th day of April 2002,
17 the above-entitled matter came on hearing at the
18 Offices of the State Office of Administrative
19 Hearings, 300 West 15th, William P. Clements
20 State Office Building, 4th Floor, Austin, Texas
21 78701, before THOMAS WALSTON, Administrative Law
22 Judge, and the following proceedings were
23 reported by William C. Beardmore, a Certified
24 Shorthand Reporter of

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2 APPEARANCES

3

4 MR. W. SCOTT McCOLLOUGH, Stumpf,
5 Craddock, Massey & Pulman, 1801 North Lamar,
6 Suite 104, Austin, Texas 78701, (512) 485-7920,
7 appearing on behalf of ASAP PAGING, INC

8 MS. BROOK BENNETT BROWN, McGinnis,
9 Lochridge & Kilgore, 919 Congress Avenue, 1300
10 Capitol Center, Austin, Texas 78701,
11 (512) 495-6000, appearing on behalf of CENTURYTEL
12 OF SAN MARCOS, INC

13 MR. ROGER STEWART, Legal Division,
14 Public Utility Commission of Texas, William B
15 Travis Building, 7th Floor, 1701 North Congress
16 Avenue, Austin, Texas 78701, (512) 936-7260,
17 appearing on behalf of THE PUBLIC INTEREST

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15 Gary Barker, who's had correspondence with ASAP,
16 and then there are some questions that
17 Mr. McCollough asked us to be prepared to
18 address with materials he sent out on Friday
19 And either Mr. Barker or Ms. Roche, who
20 is standing by in the office with
21 Mr. Barker, will be able to answer those
22 questions. Also here with me today is
23 John Navarrette, who is the District Manager for
24 CenturyTel of San Marcos for Texas, Louisiana
25 and other states --

0007

1 MR. NAVARRETTE Mainly Texas
2 MS. BROWN Mainly Texas? He will
3 also be a witness. But what I had told
4 Mr. Barker was that once we got started, we
5 would call him and let him know how quickly we
6 might need him, just so that he would know a
7 little bit about what our time frame was, and
8 then we would add him on whenever we need to add
9 him on.

10 I didn't know if Mr. McCollough
11 intended to call him as a part of his direct
12 case.

13 MR. MCCOLLOUGH I do not
14 JUDGE WALSTON You do not? Okay
15 MS. BROWN. Then, what I would
16 suggest is that we might get a time frame from
17 Mr. McCollough about his direct case. And then
18 if we could take just a minute for me to call
19 Mr. Barker and tell him what our tentative
20 schedule is, that will let him stand at ease for
21 a little while.

22 MR. MCCOLLOUGH I anticipate
23 about 30 to 45 minutes on direct -- hopefully
24 more quickly if we -- if it goes smoothly, but
25 it should take no longer for my piece of that

0008

1 JUDGE WALSTON Okay

2 MS. BROWN. Okay

3 JUDGE WALSTON Why don't we go
4 off the record, then, and that will give you a
5 chance to call.

6 MS. BROWN Okay

7 (Brief recess)

8 JUDGE WALSTON We'll go back on
9 the record at this time.

10 Mr. McCollough, do you wish to make any
11 type of opening statement?

12 MR. MCCOLLOUGH I don't, Your

13 Honor. Let's just get to the evidence.

14 JUDGE WALSTON. That's fine. Will

15 you call your first witness?

16 MR. MCCOLLOUGH I would call Ted

17 Gaetjen.

18 (Witness sworn)

19 JUDGE WALSTON Will you state

20 your name for the record and spell it for me,
21 please?

22 WITNESS GAETJEN My full name is

23 August T. Gaetjen. The last name is spelled
24 G-a-e-t-j-e-n.

25 JUDGE WALSTON Thank you,

0009

1 Mr. Gaetjen. Okay. Mr. McCollough, you may
2 proceed.

3 MR. MCCOLLOUGH Thank you.

4 PRESENTATION ON BEHALF OF ASAP PAGING, INC.

5 AUGUST T. GAETJEN

6 having been first duly sworn, testified as
7 follows.

8 DIRECT EXAMINATION

9 BY MR. MCCOLLOUGH

10 Q Could you please state your name, sir?

11 A My name is August T. Gaetjen. I go by

12 "Ted" Gaetjen.

13 Q By whom are you employed?

14 A I'm employed by and own ASAP Paging,

15 Incorporated.

16 Q In addition to being an owner, do you have
17 any operational titles with ASAP?

18 A Yes, I do. I'm also the General

19 Manager for ASAP Paging.

20 Q What kind of business is ASAP in?

21 A ASAP Paging is in the paging business.

22 Q Are you licensed by the government in

23 any way?

24 A To be a paging carrier, I have CMRS

25 licenses from the FCC.

0010

1 Q Sir, you should have a package up there
2 of exhibits. Could you take a look at what's
3 been premarked by the Court Reporter as ASAP
4 Exhibit 1 and identify that for me?

5 A This is one of our licenses that we
6 have for our CMRS license from the FCC.

7 MR. MCCOLLOUGH Offer ASAP-1.

8 JUDGE WALSTON Any objection?

9 MS. BROWN Your Honor, if I might
10 take a minute?

11 JUDGE WALSTON Sure.

12 MS. BROWN Your Honor, on the
13 face of it, this says "license expiration date,
14 March 29, 2000."

15 A This license has been renewed and --

16 MS. BROWN Just a moment.

17 JUDGE WALSTON She's trying to

18 make her objection.

19 MS. BROWN I ask for what purpose

20 this document is being offered?

21 MR. MCCOLLOUGH If I can back up

22 a little bit, I forgot a question.

23 JUDGE WALSTON Sure.

24 BY MR. MCCOLLOUGH

25 Q Mr. Gaetjen, has your license been

0011

1 renewed?

2 A This license has been renewed. I have
3 other licenses which were just not available on
4 a short notice this morning.

5 Q But you are licensed by the FCC in the
6 Central Texas area?
7 A Yes, I am.
8 MS BROWN: four honor -- well,
9 let me -- is there a pending tender of the
10 exhibit?
11 MR MCCOLLOUGH: I refer to
12 MS BROWN: Your Honor, I would
13 like to ask for what purpose this document is
14 being tendered. Centipetal of San Marcos, Inc
15 does not -- we would stipulate that ASAP Paging
16 is a licensed CMRS carrier.
17 MR MCCOLLOUGH: If the relevant
18 area?
19 MS BROWN: If you will define
20 that area.
21 MR MCCOLLOUGH: San Marcos,
22 Buda -- for purposes of this case, Buda -- let's
23 see here. I thought you gave me your Lockhart
24 license.
25 A It's available. I was told this
0012 morning, and I could not locate them.
2 MR MCCOLLOUGH: Let me just back
3 up and withdraw the exhibit, Your Honor, and
4 apologize.
5 BY MR. MCCOLLOUGH:
6 Q Are you licensed for the San Marcos
7 area?
8 A Yes. I currently licensees for
9 Lockhart, Wimberley, Buda, San Marcos, Bujing,
10 Lockhart and Gonzales.
11 Q Thank you. Do you provide paging
12 service throughout that area as well?
13 A Yes, we do.
14 Q Do you have a switch that you use that
15 facilitates your CMRS operations in Central
16 Texas?
17 A Yes. We have a switch in downtown
18 Austin.
19 Q Could you tell the Administrative Law
20 Judge what an NXX code is?
21 A An NXX code refers to the telephone
22 numbers which, in my particular case, I issue to
23 my customers to enable them to call my paging
24 switch, so to speak.
25 Q When one gets an NXX block, what does
0013 it look like?

13 Q And the NXX block is what part of the
14 dialing stream?
15 A The NXX block would be the middle three
16 digits.
17 Q And the first three digits, what's that
18 commonly called?
19 A That would be the area code.
20 Is it also called "NPA" or "numbering
21 plan administration?"
22 A That's correct.
23 Q You've been given some numbers -- by
24 what authority -- your NXXs, who did you get
25 them from?
0014 A I believe the original ones were from
1 Telcordia, and then it was then taken over by
2 NANPA.
3 NANPA stands for what?
4 Q NANPA stands for what?
5 A It's an acronym that is -- you would
6 have to help me there. I just call them
7 NANPA -- National Administration Numbering --
8 North American Number Plan.
9 Administrator, perhaps?
10 A That sounds pretty close.
11 Q Do you have some NXXs for the Central
12 Texas area?
13 A Yes, I do.
14 Q And have you associated any of those
15 NXX codes in Lockhart?
16 A Yes, I did.
17 Q What number did you assign to Lockhart?
18 A The Lockhart NXX was 512 384 NXX.
19 Q Are there any other NXX blocks that you
20 have that are what you believe to be local to
21 San Marcos?
22 A I believe I do. I believe I have a
23 tentress NXX. My mind is blank right now. I do
24 have one other NXX, which just eludes me right
25 now, but it is another Lockhart local NXX.
0015 1 The three that we applied for were
2 Lockhart, tentress and -- I'm trying to remember
3 the other one.
4 Q Maybe we can come back to that in a
5 minute.
6 A Okay. I believe it was the Kyle NXX
7 Q Do you happen to remember the numbers
8 right now for those?
9 A The tentress NXX was 512 265. The Kyle
10 NXX was 512 580, and then the Lockhart one,
11 which was 512 384.
12 Q Could you take a look at what's been
13 premarked by the Court Reporter as ASAP
14 Exhibit 2? What does that appear to be, sir?
15 A This is our confirmation from NANPA
16 for the Lockhart NXX.
17 Q So if the ALJ were to be looking for a
18 particular document demonstrating that you've
19 been issued NXXs for Lockhart, is this the
20 document that you ask him to look to?

21 A This would be the document that I
22 received as a confirmation from NANPA
23 Q You testified earlier that you have a
24 switch in Austin When did you put that switch
25 in in Austin?
0016
1 A The switch was put in Austin sometime
2 during the '96-97 time period. We put it in and
3 did extensive testing with it
4 Q And when did you receive your Lockhart
5 number?
6 A The Lockhart numbers were received in,
7 I believe, January of the Year 2000
8 Q Why don't you take a look at the
9 effective date on the upper right-hand corner of
10 Exhibit 2?
11 MS. BROWN. Your Honor, I would
12 object to the witness answering from the basis
13 of a document that is not in evidence
14 MR McCOLLOUGH: I offer
15 Exhibit 2
16 JUDGE WALSTON Any objection?
17 MS. BROWN I have no objection
18 JUDGE WALSTON Okay Exhibit 2
19 will be admitted.
20 (ASAP-2 was admitted)
21 MS BROWN Your Honor, once
22 again, either the exhibit speaks for itself
23 or -- it appears the witness is looking at the
24 exhibit to refresh his memory, and it will be
25 unclear whether or not he knows that of his own
0017
1 memory or whether --
2 MR. McCOLLOUGH That's fine.
3 I'll withdraw the question.
4 BY MR. McCOLLOUGH:
5 Q Do you have transmitters that you use
6 in your paging business?
7 A Yes, we do.
8 Q Where are your transmitters located
9 that serve the Central Texas area, including San
10 Marcos?
11 A We have transmitters in downtown
12 Austin, Westlake Hills, Buda, San Marcos,
13 Wimberley, Lockhart, Luling, Gonzales, Bastrop,
14 and there are others, too, that go further north
15 and further east
16 Q How many people do you employ?
17 A At the present time, we have nine
18 employees.
19 Q To your knowledge, how does the federal
20 government categorize you in terms of size?
21 A I believe I'm considered a small
22 business
23 Q You do provide paging services in the
24 San Marcos area?
25 A We are attempting to provide paging
0018
1 services in the San Marcos area
2 Q Prior to April 2nd, did you provide

3 paging services in the San Marcos area?
4 A Yes, we did
5 Q How did people that wanted to page
6 somebody who lived in San Marcos reach them?
7 Could you just kind of walk the Administrative
8 Law Judge through the time the person picks up
9 the phone until the time pager goes off in San
10 Marcos?
11 A Since we were issued the Lockhart NXX,
12 our customers in San Marcos were able to dial
13 the Lockhart number as a local call That call
14 came to our paging terminal via our switch, and
15 it was transmitted back out to the local
16 transmitters in San Marcos so that the customers
17 in San Marcos would get the page that they had
18 attempted to make, or their customers were
19 attempting to page them
20 Q Prior to April 2, 2002, approximately
21 how many paging customers did you have in San
22 Marcos?
23 A We had approximately 100 to 150
24 customers in the San Marcos area
25 Q Have you established direct physical
0019
1 interconnection with CenturyTel?
2 A I'm not directly connected to
3 CenturyTel, no
4 Q Who provides basic local exchange
5 service in San Marcos?
6 A I believe CenturyTel is an ILEC -- or
7 the incumbent local exchange carrier in San
8 Marcos
9 Q How do calls then reach your switch
10 from when somebody dials one of your numbers in
11 San Marcos?
12 A In reality, I'm going to have to say,
13 to me, it's magic But a customer in San Marcos
14 picks up the phone and dials a Lockhart phone
15 number, and it arrives at my switch so that I
16 can then page the transmission out over my
17 transmitters
18 Q Are you connected with any incumbent
19 local exchange carrier?
20 A I receive my physical connection
21 through Southwestern Bell's tandem in downtown
22 Austin
23 Q Are CenturyTel and Southwestern Bell
24 connected to each other?
25 A According to Southwestern Bell, they
0020
1 are Yes
2 Q Have you had any communications with
3 CenturyTel relating to the Lockhart numbers?
4 A I've had numerous conversations and
5 exchange of letters with CenturyTel over the
6 Lockhart NXX
7 Q What was the purpose of your
8 communications with CenturyTel regarding the
9 Lockhart NXXs?
10 A Whenever a new NXX is put into service,

11 there are always issues involved in the
12 programming to make sure that their own numbers
13 work
14 We started in May of 2001 actually
15 programming the numbers in our switch so that
16 they could be used. There were numerous
17 e-mails, telephone calls and letters exchanged
18 between ASAP Paging and CenturyTel, and it still
19 took till approximately the end of October or
20 the first part of November before we could get
21 the numbers to start being, I would assume,
22 translated correctly.
23 Q So you began your discussions with them
24 approximately when?
25 A In May of 2001
0021
1 Q Did the communications ever actually
2 begin to flow to you?
3 A In the first part of November or
4 towards the end of October was when we actually
5 got verification and were actually able to start
6 using the numbers via San Marcos
7 Q Sir, could you pick up what's been
8 premarked by the Court Reporter as Exhibit 3?
9 MS BROWN One moment. Is that
10 the entire package?
11 MR MCCOLLOUGH It's all that we
12 could locate
13 MS BROWN Is the exhibit this
14 document?
15 MR MCCOLLOUGH The entire
16 exhibit is the document that you have in your
17 hand. Can I go off the record just a second?
18 JUDGE WALSTON Sure. We'll go
19 off the record.
20 (Brief recess)
21 JUDGE WALSTON We'll go back on
22 the record
23 BY MR MCCOLLOUGH
24 Q Could you now take a look at what's
25 been premarked as ASAP Exhibit 3? Could you
0022
1 identify what this stack of documents is, sir?
2 A This appears to be some of the
3 communications between CenturyTel and ASAP
4 Paging.
5 Q Were you the author of the
6 communications from ASAP Paging to CenturyTel?
7 A Yes.
8 Q And for the most part, who at
9 CenturyTel were you communicating with?
10 A I was communicating with Mr. Gary
11 Barker.
12 Q How did you learn that your NXX codes
13 in Lockhart had been opened for local calling
14 for customers in San Marcos?
15 MR MCCOLLOUGH I'm sorry, Your
16 Honor. I offer 3
17 JUDGE WALSTON Any objections?
18 MS BROWN No objection

19 JUDGE WALSTON Exhibit 3 will be
20 admitted
21 (ASAP-3 was admitted)
22 BY MR MCCOLLOUGH
23 Q Let me reask the question. How did you
24 learn that your NXXs had been opened -- that
25 codes had been opened for local calling by
0023
1 customers in San Marcos?
2 A From the e-mail that Mr. Barker had
3 sent me on --
4 MS. BROWN Your Honor, I have an
5 objection to the question. It assumes facts not
6 in evidence. The question as asked was, "When
7 did you learn that these codes had been opened
8 for local calling," and it's not been
9 established that the codes were opened for local
10 calling.
11 JUDGE WALSTON Why don't you ask
12 the question to establish at least his
13 understanding?
14 MR MCCOLLOUGH I would reply
15 that, in fact, the witness did testify to that
16 earlier, but I will ask that question
17 BY MR MCCOLLOUGH:
18 Q To your knowledge, was it possible
19 prior to April 2nd for customers in San Marcos
20 to call your Lockhart NXXs on a local basis?
21 MS. BROWN: Your Honor, again, I
22 object unless we define what "local basis" is
23 for purposes of this question.
24 BY MR MCCOLLOUGH
25 Q Prior to April 2nd, was it possible for
0024
1 CenturyTel users in San Marcos to dial your
2 Lockhart NXX without incurring a long distance
3 charge?
4 A Yes, it was.
5 Q And to your knowledge, as Lockhart
6 within the local calling scope of San Marcos?
7 A According to the PUC's Web site and the
8 EIC data published on the PUC's Web site,
9 Lockhart and San Marcos are a local call to and
10 from each other, and our 512 384 NXX is listed
11 on the PUC's own Web site as a Lockhart number.
12 I assume --
13 MS BROWN Your Honor -- I'm
14 sorry to have to object and ask to
15 strike that last comment. Mr. Gaejten testified
16 as to something shown on the Commission Web
17 page.
18 I think he went beyond the question,
19 number one, and then, number two, what's shown
20 on the Web page would be hearsay as to
21 Mr. Gaejten.
22 JUDGE WALSTON Well, I think he
23 asked him what his understanding is, and I'll
24 overrule the objection, but I limit the testimony
25 to being the basis of his knowledge
0025

1 But, Mr. Gaetjen, as best you can, just
2 limit your answer to the question that's asked.
3 I think you started kind of drifting
4 A One of the ways --
5 MS. BROWN Your Honor, there's no
6 pending question.
7 MR. McCOLLOUGH Counsel
8 interrupted him, Your Honor, and I believe he
9 was still in the middle of his answer
10 MS. BROWN: May we have the
11 question read back, then?
12 (The last question was read back)
13 MS. BROWN I believe that
14 question has been answered
15 JUDGE WALSTON: I think so I
16 think beyond this, it would be nonresponsive
17 BY MR. McCOLLOUGH
18 Q Would you take a look at what's been
19 premarked as ASAP Exhibit 4? Could you identify
20 what that is, sir?
21 A This appears to be a printout from the
22 Public Utility Commission
23 Q Did you locate this page on your own?
24 A Yes, I did
25 Q Did you cause it to be printed out?
0026
1 A Yes, I did
2 MR. McCOLLOUGH Offer 4
3 JUDGE WALSTON Any objections?
4 MS. BROWN Your Honor, let me
5 take a look at it, please Your Honor, may I
6 ask for what purpose this exhibit is being
7 offered?
8 MR. McCOLLOUGH The purpose, as
9 soon as I'm able to ask question from it, is to
10 indicate that ASAP Paging's NXX block is listed
11 by the PUC as being within the Lockhart
12 exchange
13 MS. BROWN. Your Honor, we will
14 stipulate that ASAP Paging has listed in the
15 LERG the 384 prefix as being in the Lockhart
16 exchange
17 JUDGE WALSTON: Do you want to
18 accept her stipulation? I'll still admit the
19 exhibit
20 MR. McCOLLOUGH I would like to,
21 because it indicates that this information is --
22 JUDGE WALSTON Did you have any
23 other specific -- I'm sorry. Did you have any
24 other specific objection to Exhibit 4?
25 MS. BROWN. I do, Your Honor. In
0027
1 the context in which the previous question was
2 asked, the previous question was, "Is Lockhart
3 within the local calling scope?" I don't want
4 there to be -- this exhibit, as I understand
5 it -- and I don't know if there's other
6 information on the Commission's Web page that
7 would go along with it -- but this just lists
8 the prefixes by city

9 It does not indicate one way or another
10 that the 384 prefix is a local calling to the
11 Austin prefix or to the San Marcos prefix
12 MR. McCOLLOUGH That was not a
13 purpose of the offer.
14 JUDGE WALSTON I understand. And
15 it will be admitted for what it is I don't
16 believe it purports to state that Exhibit 4
17 will be admitted
18 (ASAP-4 was admitted)
19 BY MR. McCOLLOUGH
20 Q It is your understanding that persons
21 in San Marcos can call Lockhart without
22 incurring a long distance charge?
23 MS. BROWN Your Honor, I have an
24 objection I have let the rope go out quite a
25 bit on leading questions, and I believe this is
0028
1 a friendly witness, and I would ask that no
2 leading questions be asked of this witness
3 MR. McCOLLOUGH I'll rephrase
4 BY MR. McCOLLOUGH
5 Q Does somebody pay long distance -- does
6 somebody in San Marcos pay long distance to
7 reach Lockhart?
8 MS. BROWN Your Honor, again --
9 JUDGE WALSTON Actually, I think
10 this is -- we've already gone over it I will
11 overrule the objection Go ahead and answer the
12 question I think it's already been
13 established
14 MS. BROWN May I state an
15 objection to this question?
16 JUDGE WALSTON Okay I thought
17 you were going to say it was leading again
18 MS. BROWN Well, I think it's
19 very, very vague It says "Does someone place a
20 toll call to reach San Marcos?" Now, that
21 "someone" may be in Lockhart or that "someone"
22 might be in Austin or that "someone" might be in
23 New York City or might be in Rome, Italy
24 JUDGE WALSTON I may have
25 misunderstood the question
0029
1 MS. BROWN I think -- my
2 objection to the question is that it's vague
3 JUDGE WALSTON Okay I thought
4 his question was someone calling from San Marcos
5 to Lockhart Maybe I read that into the
6 question, but --
7 MR. McCOLLOUGH I meant to state
8 that, if I didn't
9 MS. BROWN And if I heard it
10 wrong, I apologize
11 JUDGE WALSTON Do you understand
12 the question? Do you know whether a person who
13 makes a telephone call from San Marcos to
14 Lockhart, whether it's a local call or a toll
15 call?
16 A According to the ELC petition --

17 JUDGE WALSTON Just your
18 knowledge, just based --
19 A To my knowledge, according to the ELC
20 petition, it is a local call from Lockhart to
21 San Marcos and San Marcos to Lockhart
22 BY MR. MCCOLLUGH
23 Q Could you turn back to ASAP Exhibit 3,
24 please? If you could take a look at the
25 document in that exhibit It appears to be an
0030 e-mail from Gary Barker to Ted, ASAP, dated
2 November 2nd
3 MR. MCCOLLUGH I'm just trying
4 to get him to the right document, Your Honor
5 JUDGE WALSTON Do you know how
6 many pages back that is so I can completely
7 follow along? Do you know how many pages --
8 MR. MCCOLLUGH No, sir, I don't
9 JUDGE WALSTON What's the date of
10 the e-mail?
11 MR. MCCOLLUGH I'll just count
12 them, November 2nd about 12 pages At the
13 very top, it says, "Re ELC for San Marcos
14 area.txt"
15 BY MR. MCCOLLUGH
16 Q Could you just identify what this
17 particular page is?
18 A This page is an e-mail that Gary Barker
19 sent back to me in response to -- at the bottom
20 of the page -- it was the original e-mail that I
21 sent to him
22 What had you asked Mr. Barker?
23 A I asked Mr. Barker if the Lockhart NXX
24 had been programmed And I'll quote here -- "I
0031 am getting reports back that the switch/tandem
1 has not been updated or translations put in to
2 allow the correct routing for ELC areas"
3 Q Okay And Mr. Barker replied to you on
4 November 2nd. What did he reply to you?
5 A His reply was that it had been done.
6 Q What was your conclusion when you
7 received that e-mail?
8 A That CenturyTel's tandem or switch had
9 been programmed to honor the Lockhart NXX -- the
10 512 384 -- so that the calls would be routed as
11 per ELC
12 Q Did you hear anything from San Marcos
13 until March of 2002 related to this issue?
14 A Not that I'm aware of
15 Q Immediately after the e-mail that we
16 were just looking at is a letter dated March 1,
17 2002 Do you see that?
18 A Yes
19 Q Is that the first communication you had
20 after November 2nd from Mr. Barker?
21 A I believe this was the first indication
22 that we had
23 Q What is your understanding -- I'm
24 trying to just put it in more simple terms.

25 What did you understand Mr. Barker to be telling
0032 you?
2 A Well, that was part of it -- that I
3 didn't understand As far as I knew, the
4 Lockhart NXX had been programmed to use ELC
5 calling between San Marcos and CenturyTel
6 In March, CenturyTel indicates that
7 there were some special trunks that these calls
8 had to go over I did not understand why it it
9 was all right to do it in November and now in
10 March it wasn't, and that Mr. Barker had been --
11 or was, at this point, asking that I enter into
12 some sort of an agreement with CenturyTel
13 concerning these numbers
14 Q And it you did not, what did he
15 indicate would happen?
16 A In the letter, it says that "CenturyTel
17 will be forced to begin assessing toll to the
18 affected end users"
19 Q Did you reply to this March 1st letter?
20 A I drafted an answer that day, and UPS'd
21 it back to Mr. Barker.
22 Q Would that happen to be the --
23 A That would be the March 4, 2002 letter.
24 Q Which is immediately behind
25 Mr. Barker's letter and attachment?
0033 1 A That's correct.
2 Q What were you trying to indicate back
3 to Mr. Barker?
4 A I was trying to convey to Mr. Barker
5 that it wasn't necessary for us to have any type
6 of formal agreement, and that the calls in my
7 opinion were ELC calls which were -- or should
8 have been toll free to the users in San Marcos
9 who were calling the Lockhart numbers
10 Q Did you express a willingness to
11 negotiate with him?
12 A In that March 4th letter, I indicated
13 that while we didn't feel like we had to have an
14 interconnect agreement or any other kind of
15 agreement, that we would not be averse to
16 entering negotiations for one, but that we would
17 not give up any of the rights due us by the FCC
18 under our CMRS license.
19 Q And when did you hear back from
20 CenturyTel?
21 A I received a letter back from
22 CenturyTel
23 Q Did Mr. Barker repeat the assertion
0034 that it would begin assessing toll in the
1 March 8th letter?
2 A In the March 8th letter, there was no
3 reference made to assessing the toll or
4 re-translating the calls. At this point, after
5 the March 8th letter, I was under the assumption

7 that negotiations would begin for some type of
8 an agreement

9 Q Do you have any current agreement with
10 Century Telephone?

11 A I have a current area-wide calling plan
12 with CenturyTel that honors my LATA-wide NXX
13 which I received from Southwestern Bell -- 512
14 222 NXX

15 Q Could you please turn to what's been
16 premarked, I guess, as Exhibit 5? Do you have
17 that in front of you, sir?

18 A Yes, I do

19 Q And what is that, please?

20 A This was the original agreement from
21 1995 that ASAP Paging had with CenturyTel for
22 the area-wide calling plan for the Austin LATA.

23 MR McCOLLOUGH Offer Exhibit 5

24 JUDGE WALSTON Any objection?

25 MS BROWN. No objection

0035

1 JUDGE WALSTON: Exhibit 5 will be
2 admitted

3 (ASAP-5 was admitted)

4 BY MR. McCOLLOUGH

5 Q On reverse billing, do you pay Century
6 Telephone for the privilege of them sending you
7 calls?

8 A Yes, I do

9 Q And how much -- at least under your
10 current area-wide calling plan, how much do you
11 pay CenturyTel?

12 A It's around 5 cents a minute

13 Q Are there any set-up fees?

14 A No, there are not. I assume you're
15 talking about setting up each call?

16 Q No. I mean, to set up translations,
17 for example, on the switch.

18 A On the original agreement, each end
19 office -- when the translations were programmed
20 into each end office, there was a fee.

21 Q Do you use the area-wide calling for
22 people in San Marcos served by CenturyTel that
23 wish to page one of your customers?

24 MS. BROWN: Your Honor, I'm going
25 to object to the question as being leading

0036

1 JUDGE WALSTON. Okay Can you
2 rephrase your question?

3 MR McCOLLOUGH I'll try

4 BY MR. McCOLLOUGH

5 Q Do you use any of the numbers that are
6 contemplated by the letter of understanding for
7 area-wide calling between CenturyTel and ASAP?

8 A Yes, we do.

9 Q What rate centers are the numbers that
10 are currently in the area-wide calling plan?

11 A The rate centers are 512 222 NXX The
12 rate center is Austin.

13 Q What does this area-wide calling plan,
14 then, do?

15 A The area-wide calling plan is designed
16 to let anybody within the Austin LATA dial a
17 7-digit number and reach my paging terminal On
18 the appearances, the calling party -- it's a
19 reverse-billed call to where I would pay the
20 charges

21 Q Who owns the NXX that you're listed for
22 here -- 512 222?

23 A Southwestern Bell

24 Q And you said it was associated with the
25 Austin rate center?

0037

1 A Yes, I did

2 Q Has Century offered you a different
3 area-wide calling plan recently?

4 A In the letters from Mr Barker, he's
5 suggesting that the Lockhart NXX -- or he's
6 suggesting that CenturyTel would honor the
7 Austin NXX under an area-wide calling plan

8 Q The Austin --

9 A Excuse me, the Lockhart -- the 512 384
10 NXX would be -- he was offering for CenturyTel
11 to honor it under an area-wide calling plan

12 Q Are you aware of any area-wide calling
13 plan offered by incumbents where a CMRS
14 carrier's NXX is used?

15 A I don't understand the question

16 Q It was a difficult one You testified
17 earlier that Southwestern Bell owned the NXX
18 that's used in your current area-wide calling
19 plan

20 A That's correct

21 Q Are you aware of any area-wide calling
22 plan where a telephone company would include an
23 NXX that has been issued directly to a CMRS
24 carrier?

25 A I'm not aware of any

0038

1 Q As a general proposition, who typically
2 owns the NXX number that is used in an area-wide
3 calling plan?

4 A Generally, the ILEC where the rate
5 center is located

6 Q Did you have an area-wide calling plan
7 that included Century whereby a Century user
8 could dial a Lockhart number?

9 A No, I did not.

10 Q The current area-wide calling plan
11 that's shown in ASAP Exhibit 5 does not cover --
12 does it cover your NXX for Lockhart?

13 A It does not cover the ASAP Paging
14 Lockhart NXX

15 Q What happened on April 2, 2002?

16 A On April 2nd, I received several phone
17 calls from -- and in particular -- one of my
18 resellers in San Marcos that the calls to my
19 Lockhart exchange were no longer being
20 processed

21 Q Were the calls complete?

22 A The calls were not being completed as a

23 7-digit call
24 Q What happened if a customer dialed the
25 7 digits?

1 A I got several different responses from
2 different people, which I have yet to verify
3 but one of the responses was that they were
4 getting a --

5 JUDGE WALSTON Let her make her
6 objection

7 MS BROWN Your Honor, I'm going
8 to object to any testimony by this witness as to
9 what third parties told him
10 JUDGE WALSTON What's your
11 response? I think he was about to testify to
12 hearsay

13 MR MCCOLLOUGH That's fine
14 BY MR MCCOLLOUGH

15 Q Without repeating what somebody told
16 you, can you give your best understanding of
17 what happened when somebody dialed 7 digits?

18 A The calls were being blocked
19 Q Could the calls still be completed
20 using any dialing sequence -- any particular
21 dialing sequence?

22 A The calls were being processed if they
23 were dialed as a toll call or a 1-plus call
24 Q So they would have to dial 1-plus, the
25 area code and number?

1 A That's correct

2 Q Has traffic to your Lockhart NXX from
3 San Marcos changed in any way since April 2nd?

4 A Slightly. It's practically zero
5 Q Have you lost any customers -- paying
6 customers in San Marcos?

7 A The billing for the April month has not
8 been returned. If I've lost customers, it will
9 show up within the next 30 days
10 Q Have you received complaints?

11 A We've received many complaints
12 Q Has anybody told you that they will --
13 strike that. I won't even go there. Have you
14 had any indication that you may be losing
15 customers?

16 A Yes
17 Q If you are forced to pay something in
18 the nature of 5 cents a minute for calls from
19 San Marcos to your Lockhart NXX, will you be
20 able to continue providing paying service in San
21 Marcos?

22 A I will be able to provide the service,
23 but nobody will buy it because it will be
24 expensive -- prohibitively so.

25 Q Would this cost burden put you at a
competitive disadvantage?
1 A Most definitely
2 Q Do your paying customers -- let me back
3 up Do you provide voice messaging services as

5 well?

6 A Yes, we do
7 Q If a user -- if someone wants to page
8 one of your customers, do they get, like, a
9 choice at the time that you dial the number?

10 Q Could you walk the examiner through that
11 sequence?
12 A Our customers can elect to have voice
13 mail associated with their pagers, so that
14 someone calling their pager number can actually
15 leave a voice message that we record in our
16 terminal

17 The person carrying the pager will get
18 a page that says "message waiting" The pager
19 carrier would then call their own pager number
20 and enter a security code and enter into a menu
21 where the voice message that was left will be
22 played back to them over the telephone.

23 Q In order to retrieve a voice message,
24 does one of your customers have to have local
25 telephone service? Would it have to have phone

1 service of some type?
2 A They must have phone service, yes
3 Q Your San Marcos paying customers -- in
4 large part, who's their local telephone service
5 provider?

6 A In most instances, it's CenturyTel.
7 Q If your customers are trying to
8 retrieve a voice message, what's the dialing
9 sequence that they are required to undergo --
10 after April 2nd?

11 A After April 2nd, to call their own
12 pager number, it became a toll call and
13 necessitated them dialing a 1-plus call.
14 Q If you were to enter an area-wide
15 calling plan with CenturyTel that included your
16 Lockhart numbers, would you have to deal with
17 any of the other phone companies as well in
18 order to get them to honor that?

19 A To make an NXX -- an area-wide calling
20 plan for the Austin LATV, I would have to deal
21 with every phone company who has an end office
22 or a switch in the Austin LATV

23 Q Would you incur any charges?
24 A I would incur significant charges
25 Please explain.

1 A The original 222 NXX, which we've made
2 LATV-wide for the Austin LATV -- area-wide
3 calling plan -- we paid Southwestern Bell \$8,000 for
4 to allow us to use the NXX, and then \$5,000 for
5 them to program their equipment to honor the
6 calls as area-wide calling

7 We then paid GTL on a per-end-office
8 basis to program their end offices to honor the
9 512 222 exchange, and, in fact, paid CenturyTel
10 for them to put the translations in San Marcos
11 Q Would you have to do something similar
12 if you put your NXXs into an area-wide calling

13 plan with Century?

14 A I'm not sure that I can put my NXXs
15 into an area-wide calling plan

16 Q Do you have an area-wide calling plan
17 with Southwestern Bell at present?

18 A Yes, I do

19 Q Does Southwestern Bell charge you under
20 that area-wide calling plan when, say, somebody
21 in Austin -- let me back up I'm sorry Do you
22 use the same number with Southwestern Bell --
23 222?

24 A Yes, I do

25 Q When somebody in Austin dials that NXX
0044
1 to reach one of your paging customers, does
2 Southwestern Bell charge you under the area-wide
3 calling plan?

4 A There is no charge from Southwestern
5 Bell for what would normally, under normal
6 circumstances, be a local call

7 Q Does Southwestern Bell honor extended
8 local calling service areas for purposes of its
9 area-wide calling plan?

10 A Yes, they do

11 Q To your best understanding, does the
12 area-wide calling plan that Century has offered
13 to you to solve the Lockhart problem exclude
14 calls between San Marcos and Lockhart for
15 purposes of the charge?

16 A Rephrase that question, because I'm
17 afraid I don't understand it, exactly

18 Q Under Century's offer to you to include
19 your NXX in an area-wide calling plan, would
20 they charge you a usage rate when a CenturyTel
21 user in San Marcos dials your Lockhart number?

22 A Yes, they want to.

23 Q Why do you object to entering into an
24 area-wide calling plan with CenturyTel for
25 purposes of reaching connectivity to your
0045
1 Lockhart number?

2 A As far as ASAP Paging is concerned,
3 it's cost prohibitive

4 Q When you obtained your NXXs and
5 associated them with Lockhart, what was your
6 understanding and intent with regard to the
7 ability for San Marcos customers to reach that
8 number?

9 A When we obtained the Lockhart NXX, we
10 weren't particularly looking at San Marcos
11 What we were doing was trying to get the largest
12 calling scope, so that when we got an NXX it
13 would allow the most people that we could
14 possibly get to call that number as a local
15 call

16 We had been in several meetings with
17 the PUC, and they were concerned about NXX
18 exhaustion So we made an effort to try to get
19 an NXX that would allow the most people to call
20 it toll free or as a local call without having

21 to get multiple NXXs throughout the LATA

22 Q Did you at one time have NXXs for the
23 San Marcos switch?

24 A We applied several years ago and
25 actually had a San Marcos NXX issued to us, and
0046
1 it was going to be cost prohibitive to bring
2 those numbers back to the Austin tandem where
3 our switch was located We gave the NXXs back
4 to the -- at that time, it wasn't NANPA, but we
5 returned the NXX to them

6 MR STEWART Your Honor, not an
7 objection, but just seeking clarification -- for
8 example, the answer made to the previous
9 question made reference to communications with
10 the PUC and statements allegedly, I guess, made
11 by persons at the PUC

12 There also are a few such things in,
13 for example, ASAP No 3 -- Exhibit 3, and I'm
14 just seeking clarification that they are not
15 being offered for the truth of statements
16 allegedly made by persons at the PUC, but just
17 simply that in the case of this that certain
18 statements were made by other people, I guess

19 JUDGE WALSTON That would just go
20 to the weight to be given to them, but I take
21 those to be his understanding of what
22 transpired

23 Whether it's accurate or not, it's
24 still his understanding.

25 MR STEWART Okay Thank you.
0047
1 Your Honor

2 BY MR MCCOLLOUGH

3 Q We'll shift gears just a little bit, if
4 we can Does CenturyTel or any of its
5 affiliates provide Internet access service in
6 the San Marcos area?

7 A Yes, they do

8 Q Do you know what number somebody dials
9 in San Marcos to reach Century's Internet
10 operations?

11 A In San Marcos, on CenturyTel's Web
12 site, 512 393 5555 is listed as a CenturyTel
13 Internet site that is a local call from
14 Lockhart, Martindale, Kyle, Lytton Springs,
15 Fentress, Dale and San Marcos

16 Q Is it your understanding that Century
17 provides Internet access service in Lockhart?

18 A It's my understanding that people in
19 Lockhart can call CenturyTel's Internet number
20 toll free as a local call

21 Q Do you control the way that CenturyTel
22 routes its calls for ELC purposes?

23 A I have no control or knowledge of how
24 they control their calls

25 Q Have you given CenturyTel all of the
0048
1 information that they need in order to route
2 calls originating in San Marcos to your Lockhart

3 NXK over extended local calling facilities?
4 MS BROWN Your Honor, I would
5 object to that question in the sense that I
6 think the witness could describe what
7 information he's given, but the way the question
8 is worded is, "Have you given Century all that
9 it needs in order to route those calls," and I
10 don't think we've established that this witness
11 knows what all that information would be
12 MR McCOLLOUGH I'll reask the
13 question
14 BY MR McCOLLOUGH.
15 Q Has Century told you that it lacks any
16 information from ASAP Paging in order to route
17 calls over ELC trunks?
18 MS BROWN Your Honor, I would
19 object to the question as calling for hearsay
20 MR. McCOLLOUGH That would be a
21 statement by a party opponent
22 JUDGE WALSTON Overruled Go
23 ahead
24 BY MR McCOLLOUGH
25 A As far as I'm concerned, Gary Barker
0049
1 summed it up on November 2nd when he --
2 JUDGE WALSTON No, wait Just
3 answer the question
4 BY MR. McCOLLOUGH.
5 A Yes
6 Q Have you provided the information --
7 all the information to Southwestern Bell that
8 they have asked you for in order to ensure that
9 calls that come -- that Southwestern Bell can
10 route ELCs calls to you?
11 A Yes, I do
12 MS BROWN Your Honor, again, I
13 object to the question
14 JUDGE WALSTON Okay Overruled
15 BY MR McCOLLOUGH.
16 Q Do you know what Southwestern Bell's
17 position is about routing of San Marcos
18 originated traffic to ASAP over ELC trunks?
19 MS BROWN Your Honor, I would
20 object to the question as calling for hearsay
21 He's calling for a statement made by
22 Southwestern Bell Telephone Company outside this
23 hearing room
24 MR McCOLLOUGH Well, Your Honor,
25 we may get there in a minute, but right now I'm
0050
1 asking whether he knows their position I
2 haven't asked him to state it
3 JUDGE WALSTON Yeah, he hasn't
4 asked him that Just answer that question Do
5 you understand the question or do you want him
6 to restate it?
7 A Restate the question.
8 MR McCOLLOUGH Can you read it
9 back?
10 (The last question was read back)

JUDGE WALSTON Just -- do you
know the position?
A Yes
(ASAP Exhibit No 6 was marked)
BY MR. McCOLLOUGH
Q Could you take a look at what's been
marked by the Court Reporter as ASAP
Exhibit 6?
A Okay
Q I suspect we're going to get an
objection on this. So please just identify the
document
A These are copies of e-mails from ASAP
Paging's technician to Southwestern Bell
Q It's dated Friday, April 12th?
0051
1 A That's correct
2 Q Could you explain the context in which
3 this document was generated?
4 MS. BROWN Your Honor, may I have
5 a moment to look at the document? I have not
6 seen this before this minute
7 JUDGE WALSTON Sure.
8 MS BROWN. Your Honor, I would
9 like this on the record Mr. McCollough has
10 just gone over and talked to his witness,
11 apparently, in connection with this exhibit,
12 and --
13 MR. McCOLLOUGH. Actually, it was
14 about the next subject I was going to talk
15 about.
16 MS BROWN: Well, Your Honor, I
17 don't think it's appropriate to coach a witness
18 while he's on the stand, and I would ask that
19 Mr McCollough be instructed not to approach the
20 witness without first clearing that with you.
21 JUDGE WALSTON Okay. It will be
22 so noted in the record, and request permission
23 to approach the witness
24 MS. BROWN. Your Honor, I have
25 reviewed the exhibit. Thank you.
0052
1 JUDGE WALSTON Okay
2 BY MR. McCOLLOUGH
3 Q Are you the custodian of records for
4 ASAP Paging?
5 A Yes, I am
6 Q Do you have a particular folder where
7 all communications related to CenturyTel are
8 maintained?
9 A I have a physical folder, yes
10 Q And when an e-mail is received that
11 pertains to that particular topic, do you print
12 it out and put it in that folder?
13 A In most instances we do print it out
14 Q ASAP Exhibit 6 -- does it relate to
15 CenturyTel matters?
16 A Yes, it does.
17 Q And was it maintained by you and is it
18 under your direction and control?

19 A Yes, it is
20 Q Is it a true and correct copy of the
21 correspondence related to the CenturyTel matters
22 that you've been paying attention to on behalf
23 of ASAP?
24 A That was kind of convoluted Would you
25 please rephrase that?

0053

1 Q Is this a true and correct copy of the
2 e-mail?
3 A Yes
4 MR McCOLLOUGH Offer ASAP
5 Exhibit 6
6 JUDGE WALSTON Any objection?
7 MS BROWN Yes, Your Honor
8 Number 2, is it being offered for the truth of
9 the matters stated? I mean --
10 MR. McCOLLOUGH. Right now it's
11 been offered merely to indicate that it's a
12 document that our custodian of records has and
13 that it, you know, relates to what Bell told us
14 JUDGE WALSTON I guess, unless he
15 limits his offer, I assume it's being offered
16 for all purposes
17 MS BROWN I would object to the
18 exhibit as being an attempt to present within
19 the hearing room a statement made by a third
20 party outside the hearing room, and I object to
21 it as being hearsay Number 2, we've not
22 identified who the Southwestern Bell -- if there
23 is a Southwestern Bell person who made these
24 statements
25 We've not identified that that person

0054

1 had authority to make these statements We've
2 not identified the recipient of these
3 statements. It appears that the recipient
4 receives this not at -- it doesn't reflect any
5 receipt of this at ASAP Paging, but it's someone
6 at awesomenet net We don't have any indication
7 in the record who that is
8 I object on the grounds that it
9 contains hearsay information offered for the
10 truth of the matters stated therein
11 JUDGE WALSTON Do you have a
12 response, or do you just want to clarify what --
13 MR McCOLLOUGH. I can certainly
14 back up and get some testimony related to the
15 sender and receiver and what the "Bell
16 representative" -- what that person's role is
17 JUDGE WALSTON: Why don't you just
18 go ahead and clear up who the senders and
19 receivers are?
20 BY MR McCOLLOUGH
21 Q Who is at etzler@austinnet net?
22 A David Etzler is my chief technician for
23 ASAP Paging
24 Q Did he send an e-mail to Southwestern
25 Bell on or about April 12th?

0055

1 MS BROWN. Your Honor, I object
2 to the question, because it calls for a hearsay
3 It's not shown that this witness has by personal
4 knowledge --
5 JUDGE WALSTON Well, he can tell
6 us if he has some knowledge or not I mean, at
7 this point, he's asking the question If he
8 doesn't have knowledge, I assume he'll tell us
9 I don't know

10 MS BROWN Well, I hope that the
11 question can be clarified, then, to ask him what
12 his knowledge is separate and apart from ASAP
13 Exhibit 6.

14 BY MR McCOLLOUGH

15 Q Did you ask Mr Etzler to send SWBT an
16 e-mail and ask a question?

17 A Yes, I did

18 Q To your knowledge, did he do so?

19 A Yes, he did

20 Q To your knowledge, did Bell respond?

21 A Yes, they did

22 Q And to whom did Mr Etzler send the
23 e-mail, to the best of your knowledge?

24 MS BROWN Your Honor, once
25 again, the question was just -- okay I think

0056

1 the question is, "Do you know who he sent it
2 to," and not "whom to the best of your knowledge
3 did he send it to?"

4 BY MR McCOLLOUGH

5 Q Do you know who he sent it to?

6 A He sent it to the representative who
7 Southwestern Bell has assigned us her boss --
8 Emily "Sam" Cobb

9 Q Emily "Sam" Cobb? What is Emily "Sam"
10 Cobb's title?

11 A According to the e-mail, she is a
12 manager of routing

13 JUDGE WALSTON It will just go to
14 the weight If that's what he knows, that's
15 what he knows

16 MS BROWN Well, I think he's
17 reading from the document to give us that
18 information and not from his own knowledge

19 BY MR McCOLLOUGH

20 Q Independent of ASAP Exhibit 6, do you
21 know what this person's title is or job
22 responsibilities?

23 A This person is a manager of routing

24 Q Did you know that before April 12th?

25 A No, I did not

0057

1 Q Did Etzler know that before April 12th?

2 A No, he did not

3 Q Okay So how did he know who to send
4 it to?

5 A Through correspondence with our normal
6 Southwestern Bell representative

7 Q Okay Did you cause an e-mail to be
8 sent to SWBT on April 12th from -- did you draft

9 an e-mail on April 12th.
10 A I assisted Mr. Etzler in drafting the
11 e-mail to Ms. Cobb
12 Q Okay what about the -- did you have a
13 subsequent communication with Bell?
14 A From the e-mail that I assisted Mr.
15 Etzler in drafting, yes, we got a response
16 Q Okay. And then was there a subsequent
17 response to that response?
18 A Yes, there was
19 Q Did you draft that subsequent response
20 to the response?
21 A Yes, I did
22 Q And then you finally -- did you finally
23 receive a final e-mail from Bell on April 12th?
24 A Yes, I did
25 Q Okay. And, again, without disclosing
0056 contents, if one were to look at -- the history
1 going backward, at the bottom, would be the
2 initial communication reading upward. Is that
3 correct?
4 MS. BROWN: Your Honor, I am
5 confused. As I understand what the witness has
6 testified to is that he had separate e-mails
7 with Southwestern Bell separate and apart from
8 ASAAP-6, and in this last question I believe
9 Mr. McCollough was referring to ASAAP-6
10 I am unclear whether we're now talking
11 about the separate communications Mr. Gaejten
12 had with Southwestern Bell or about ASAAP-6
13 MR. McCollough: The last
14 question, Your Honor, I was just trying to
15 set --
16 JUDGE WALSTON: I think he was
17 just asking the sequence that appears on Exhibit
18 6
19 MR. McCollough -- the sequence
20 as they would appear from the bottom up, and
21 that was the purpose of the question
22 MS. BROWN: But, Your Honor, none
23 of these e-mails indicate that they are from
24 Mr. Gaejten to Southwestern Bell.
0059

17 it's not coming in for the truth of the
18 matter asserted, I would like it in as the basis
19 for Mr. Gaejten's opinions
20 JUDGE WALSTON: Go ahead and let
21 Ms. Brown make her objections. Do you have any
22 additional objections?
23 MS. BROWN: Yes, sir, I do.
24 No, I, the witness has not -- I believe he
25 testified he had some other correspondence with
0060 Southwestern Bell that's not being offered
1 I don't know how that would tend to
2 correct the hearsay nature of ASAAP-6. And then,
3 secondly, we've had not one word of testimony as
4 to how the document that's shown here as ASAAP-6
5 happened to be prepared.
6 We don't have anything that takes a
7 chain of title from whatever terminal this
8 communication may or may not have been received
9 upon and got it here today in the form in which
10 it's represented in ASAAP-6. And for those
11 reasons, I would object that this document is
12 hearsay and it's not be authenticated
13 JUDGE WALSTON: I don't have any
14 concern about the authentication. I think it's
15 a reliable document. I'll overrule that. I do
16 have a concern about the statements by Bell
17 being hearsay.
18 I do believe some questions were raised
19 in the pleadings about ASAAP's diligence in
20 trying to resolve some of these problems. So I
21 will let it be admitted for the limited purpose
22 of showing, at least, the actions ASAAP has taken
23 to check on the situation
24 Now, whether what Bell states in here
0061 is correct or not, that part will not be
1 admitted for the truth of the matter. If you
2 agree with that or not, does that at least make
3 sense? Do you understand what I'm saying? It's
4 not being offered for the truth of the matter,
5 because I do believe it's hearsay.
6 MR. McCollough: I would point out
7 also that --
8 JUDGE WALSTON: Let me ask you one
9 more question, Mr. McCollough. You said you
10 were offering it as a basis of the witnesses'
11 opinion, but I wasn't sure what opinion you're
12 talking about, to tell you the truth.
13 MR. McCollough: Okay. First of
14 all, if I can just kind of close on this. I
15 think I understand your ruling. I do wish to
16 point out at Page 3 of CenturyTel's answer
17 they indicate that it is impossible to
18 complete these calls over BICS facilities that
19 CenturyTel would do so.
20 What we're trying to basically do is
21 say that everybody has done what they need to do
22 in order for these calls to route. And if
23 there's a problem, it's at Century, and I think

25 this is supportive of that

0062

1 JUDGE WALSTON Okay And I think
2 it does show that, at least, that's ASAP's
3 understanding, because they have attempted to
4 and this is what they found out from Bell
5 (ASAP-6 was admitted)

6 BY MR. MCCOLLOUGH

7 Q Mr Gaetjen, how long have you been in
8 the paging business?

9 A Since the fall of 1989.

10 Q Do you understand much of the
11 technology that underlies the paging business?

12 A Sometimes

13 Q You understand what you need to know
14 about the technology to make your paging
15 business work?

16 A Yes.

17 Q Do you have to deal with telephone
18 companies and other telecommunications service
19 providers on a routine basis in order to run
20 your paging business?

21 A Yes, I do.

22 Q Are you a telecommunications service
23 provider?

24 A Yes, I am

25 Q Do you believe that you have more

0063

1 knowledge than a man on the street about
2 telecommunications in general and paging service
3 in particular?

4 A I would like to think that I do

5 MR MCCOLLOUGH I would like to
6 offer him now as an expert, Your Honor

7 JUDGE WALSTON: Okay.

8 BY MR. MCCOLLOUGH

9 Q Do you have an opinion as to why -- as
10 to whether the problem may be, if there is
11 indeed a problem, with routing calls from San
12 Marcos to your Lockhart number over ELC trunks?
13 Do you need me to ask that again?

14 A I certainly do

15 Q Do you have an opinion as to where the
16 problem lies if there is one --

17 A Yes, I have an opinion

18 Q -- with regard to routing calls from
19 CenturyTel in San Marcos to your Lockhart NXXs?

20 A Yes, I have.

21 Q And what is that opinion?

22 A In my opinion, CenturyTel has changed
23 the translations in the San Marcos tandem to
24 prevent the calls from being local so that the
25 callers must dial a 1-plus or a toll call

0064

1 Q What is your understanding about
2 whether there is a need for a CMRS provider,
3 such as yourself, to have an interconnection
4 agreement with an incumbent for purposes of the
5 exchange of traffic?

6 MS. BROWN. Your Honor, I believe

7 that question calls for a legal conclusion, and
8 I would object on that basis

9 MR MCCOLLOUGH I'm not asking
10 for a legal conclusion. I'm asking for what his
11 understanding is

12 JUDGE WALSTON: What's your
13 understanding?

14 A My understanding is that the FCC has
15 ruled that there are no interconnection
16 agreements necessary for CMRS providers to
17 interconnect with ILECs

18 BY MR. MCCOLLOUGH

19 Q Do you have any experience in dealing
20 with telephone companies negotiating
21 interconnection agreements? Have you negotiated
22 with Bell, for example?

23 A Yes, I have

24 Q Have you negotiated with GTE, for
25 example?

0065

1 A Yes, I have

2 Q Have you negotiated with any other
3 incumbents?

4 A Yes, I have

5 Q Okay

6 MS BROWN: Your Honor, I don't
7 mean to interrupt here, but it's 3 00, and I
8 think we told Mr. Barker we would be calling him
9 about 2 00. If we could have some kind of
10 status report, maybe we could update him and let
11 him know where we stand

12 JUDGE WALSTON And I think the
13 Court Reporter might need a little break to rest
14 his fingers

15 MR MCCOLLOUGH I should be
16 finished here in about three to five minutes,
17 and then we can take a break

18 MS BROWN. Your Honor, will there
19 be any other witnesses offered by ASAP?

20 MR MCCOLLOUGH That will be our
21 direct case

22 BY MR. MCCOLLOUGH

23 Q In your negotiations with the various
24 incumbent LECs, have they made demands of you
25 that, in your opinion, required you to waive

0066

1 your rights as you understood them?

2 MS BROWN Your Honor, I, again,
3 object on the grounds that this asked the
4 witness whether demands have been made of him
5 that he could object to on a legal basis by
6 third parties

7 I object, one, on the grounds of
8 relevance. I object, 2, in that it calls for a
9 legal conclusion by this witness

10 JUDGE WALSTON What is the
11 relevance on this?

12 MR MCCOLLOUGH That this line of
13 questions, Your Honor, basically goes to why we
14 object to an interconnect agreement with

15 Century. I was framing that I am move on
16 directly to Century if you would prefer
17 BY MR. MCCOLLOUGH
18 Q In the offers that Century has made for
19 interconnection and area-wide calling, have
20 they, according to your understanding, required
21 you to give up rights that you believe you had
22 under the act and law?
23 MS. BROWN Your Honor, I object
24 to the question It calls for -- or it relates
25 to facts not in evidence One, is that
0067
1 CenturyTel has asked for an interconnection
2 agreement, and, secondly, that it's asked for an
3 area-wide calling plan agreement in the context
4 of this dispute
5 MR. MCCOLLOUGH Well, Your Honor,
6 we've already got ASAP Exhibit 3 in, and --
7 JUDGE WALSTON What was the
8 question again? Maybe I misunderstood the
9 question, because your objection seemed
10 different from the question he asked, but -- do
11 you remember your question?
12 MR. MCCOLLOUGH I was just asking
13 him if Century had demanded things that he
14 thought he would have to give up rights that he
15 had under the act
16 JUDGE WALSTON And you're asking
17 him to compare with them?
18 MS. BROWN Your Honor, I think
19 we're here on one specific issue today I think
20 the offers that have been made to this witness
21 are in the exhibit
22 I don't know whether the question goes
23 to those offers or to something else, but the
24 terms used, "interconnection agreement" and
25 "area-wide calling plan," are not the offers
0068
1 that have been made by CenturyTel in connection
2 with this dispute
3 JUDGE WALSTON Mr. McCollough, if
4 you can narrow your question down to where we're
5 dealing with this dispute that we're on here
6 BY MR. MCCOLLOUGH
7 Q Take a look at Mr. Barker's October 2nd
8 letter to you, the first page of ASAP Exhibit 3,
9 please On Point No. 1 on the second page,
10 what's the first sentence under Point No. 1?
11 A "There is a need for ASAP Paging to
12 establish direct trunking with CenturyTel of San
13 Marcos, Inc."
14 Q Okay That's no No. 2 What about the
15 one above it? Do you not have that?
16 JUDGE WALSTON No 1 on that
17 page
18 A "There is a need to negotiate an
19 agreement."
20 BY MR. MCCOLLOUGH
21 Q What's the first sentence in Paragraph
22 No. 3?

23 A "There needs to be an agreement on
24 compensation."
25 Q Did you perceive that CenturyTel was,
0069
1 at least on October 3rd, trying to require you
2 to enter an interconnection agreement?
3 A I certainly thought they wanted me to
4 Q And under the area-wide calling plan,
5 is, in your opinion, CenturyTel including
6 particular terms that you find objectionable?
7 MS. BROWN Your Honor, once
8 again, I'll object I don't know what area-wide
9 calling plan Mr. McCollough is referring to
10 There's been testimony about a Southwestern Bell
11 area-wide calling plan
12 There has been a document introduced as
13 the CenturyTel of San Marcos area-wide calling
14 plan I believe the question is unclear as to
15 what agreement we're talking about.
16 MR. MCCOLLOUGH That's fine
17 BY MR. MCCOLLOUGH
18 Q Could you turn to the April 3rd
19 letter -- April 3, 2002 letter from Mr. Barker?
20 It's near the back Do you see it --
21 A Yes
22 Q -- in ASAP Exhibit 3?
23 A Yes
24 Q Take a look at the second page of the
25 letter itself, the April 3rd letter. Did
0070
1 you -- what was your understanding of that
2 sentence? It begins, "Please let this letter
3 serve."
4 A My understanding was that they expected
5 me to enter into a reverse billing arrangement
6 or that they would start billing their own
7 customers for these local calls.
8 Q Okay. And was there a proposed reverse
9 billing arrangement attached to this letter?
10 A Yes, there was.
11 Q And was it your understanding that if
12 you had accepted -- let me back up If you had
13 accepted and signed this letter of
14 understanding, is it your belief that CenturyTel
15 would have charged you usage-based charges for
16 calls from San Marcos to your Lockhart NXX?
17 A That's correct.
18 Q Do you object to that?
19 A Yes, I do.
20 Q Shifting gears right quickly, do you
21 provide paging service to medical personnel?
22 A Yes, I do, from doctors, medical lab
23 technicians, EMTs -- any number of people that
24 are in the medical field could and may have
25 pagers from ASAP Paging
0071
1 Q Do they use them in their business?
2 A Yes, they do.
3 Q Emergency calls, perhaps?
4 A Yes, they do.

5 Q Do you provide service to public
6 safety -- any public safety entities?

7 A Yes, we do. We provide service to
8 different sheriff's departments and/or -- for
9 instance, the LCRA has pagers from us throughout
10 the area

11 Q Do they use them for their business as
12 well?

13 A Yes, they do

14 Q Any other electric utilities?

15 A I believe Bluebonnet Electric Co-op
16 out of Giddings has pagers from us. GTE, as a
17 phone company, has pagers from us

18 Q Do you have any special programs with
19 your paging services where any class or type of
20 individual receives --

21 A We're real flexible. One of the
22 programs that we do -- if somebody wants to
23 lease a pager from us or rent a pager from us
24 who indicates it's for some type of a bona fide
25 medical reason, we will, basically, give them

0072 1 the pager for as long as they need it

2 We have, in fact, given people pagers
3 to use while they were awaiting transplants,
4 whether it be the liver, kidney or heart. We've
5 given pagers to people who are awaiting
6 notification for an adoption from an adoption
7 agency

8 We have, most recently, donated pagers
9 here in Austin to a bicycle event over the
10 weekend where they needed, I believe, 5 pagers
11 so they could communicate.

12 Q In your opinion, does having access to
13 a working pager help protect the life, health or
14 safety of individuals?

15 A Yes, it does

16 MR MCCOLLOUGH I pass the
17 witness.

18 JUDGE WALSTON Okay. Why don't
19 we take a -- will 15 minutes be long enough to
20 take a break?

21 MS. BROWN That's fine with me

22 JUDGE WALSTON So we'll take a

23 15-minute break. It's about 12 after. We'll
24 start back at about 3:27

25 (Recess 3 12 p.m. to 3 33 p.m.)

0073

1 JUDGE WALSTON Okay. Ms. Brown?

2 MS. BROWN: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. BROWN:

5 Q Good afternoon, Mr. Gaetjen.

6 A Hi.

7 Q Mr. Gaetjen, you testified that ASAP
8 Paging has paging businesses -- or provides
9 pages service in the Central Texas area, and I
10 believe you identified several areas -- San
11 Marcos, Lockhart, Wimberley, Buda and
12 Gonzales -- where you provide paging services

13 Do you recall that testimony?

14 A What's the question?

15 Q Is that correct?

16 A Yes, that's correct.

17 Q I'm just trying to put this question

18 into context.

19 A Okay.

20 Q Now, do you have an office -- a retail
21 office in San Marcos for paging service?

22 A No, we don't.

23 Q You do have one here in Austin. Right?

24 A That's correct.

25 Q And looking at the phone directory

0074

1 here, I couldn't be sure whether there was one
2 or two retail offices here for your paging
3 services.

4 A At present there is one.

5 Q Okay. Do you have retail paging

6 offices in other cities in Texas?

7 A We have one more retail office.

8 Q And where is that?

9 A In Hallettsville.

10 Q Okay. Would you agree with me that
11 currently ASAP Paging has about 25 of these NPA
12 codes in Texas?

13 A That sounds pretty close.

14 Q Okay. And would you agree with me that
15 those codes are located not only in the Austin
16 LATA but the Lubbock, Amarillo, Midland, El Paso
17 and Hearn LATAs?

18 A I'm not familiar with the Hearne LATA.

19 We do have an NXX code in the Bryan LATA.

20 Q In the Bryan LATA. Okay. And so the
21 dispute here involves one of those 25 NPA
22 numbers that you have currently?

23 A That's correct.

24 Q And --

25 MR. STEWART: Your Honor, I'm

0075

1 sorry. I don't mean to interject or disagree
2 with that. Does Ms. Brown mean NPA NXX codes as
3 opposed to NPA codes?

4 MS. BROWN: I do mean NPA-NXX.

5 MR. STEWART: Thank you.

6 MS. BROWN: Thank you.

7 BY MS. BROWN:

8 Q Now, you testified that you had about
9 150 paging customers in San Marcos. Is that
10 correct? Did I understand that correctly?

11 A I believe that's what I said.

12 Q Now, are those pages customers -- do
13 they reside in San Marcos, or how do you
14 identify them as being San Marcos paging
15 customers?

16 A To get real specific, I would have to
17 go and pull every customer's record and see
18 exactly their address, and even then the bill
19 does not necessarily reflect where they are
20 going to be when they need the page.

21 Q Okay So when you testified that you had 150 San Marcos paging customers, what did you mean?

24 A That approximately 150 people in the San Marcos area were relying on ASAP Paging's coverage

1 coverage

2 When you say, "they rely on your coverage," do you mean that they are a San Marcos resident, or could they be an Austin paging customer and be in San Marcos at one point or another and want to receive a page there?

8 I'm not sure what you mean by -- can you tell us what you mean by that?

9 A I feel that there is approximately 150 people who live or work in the San Marcos area that need our service

12 Q Okay But you haven't testified that by billing records or other customer records?

14 A No, I haven't

15 Q And the switch that you own, I believe you testified you have one switch, and that's in Austin

18 A That's correct

19 Q That's correct

20 Q Okay And I believe you also testified that there is an NPA-NXX, the 512 222 NPA-NXX that can receive toll free calls throughout the Austin LATN

23 A Is that correct?

24 A It's part of the area-wide calling plan, yes

25 Q And can the pagers that you offer to customers receive calls over that number

2 They are not toll free They are reverse billed back to ASAP Paging

14 Q Okay. But from a dialing perspective, any person in the LATN can call one of those paging numbers on a toll free basis -- toll free to the customer dialing the call?

18 A That's correct

19 Q Okay Now, do you have codes available on that 512 222 block of numbers? Do you have numbers currently unassigned out of that 512 NPA -- 512 222 -- excuse me -- 512 222 block of numbers that are currently unassigned?

24 A Yes.

25 Q How many?

1 Several thousand

2 Q Okay And so with regard to this

3 dispute, could those numbers be assigned to a LATN to that number be dialed on a basis that is toll free to that paging customer and toll free to the caller?

8 A Can they be called toll free to the caller?

9 caller?

10 Q Well, could you assign one of those 512 222 numbers to a customer to enable that customer to receive pages from anywhere within the LATN without the caller having to place a toll call?

14 A Yes

15 Q Now, do you have a switch in Lockhart?

16 A No, I do not

17 Q What kind of a facility does ASAP Paging have in Lockhart?

19 A I do not have any equipment in Lockhart

21 Q Okay And so if a call reaches Lockhart, what happens to it when it gets to Lockhart? If a call is placed under 512 384, what happens to that call?

25 A I don't know

2 Okay. Before April 2, if a call was placed from San Marcos to 512 384, that call, I assume -- did it reach your switch in Austin?

4 A Yes, it did

5 Q Okay Now, what did you do to it once it reached your switch in Austin?

7 A I routed that call to my paging terminal

9 Q Where would that paging terminal be?

10 A Next to the switch

11 Q Here in Austin?

12 A That's correct

13 Q Okay. Would that call ever get to Lockhart -- any part of that call get to Lockhart physically?

16 A Other than a pager going "beep," no

17 Q Okay And that pager going "beep" could have been anywhere within the LATN?

19 A That's correct.

20 Q Okay Mr. Gaetjen, did you make any inquiry of Southwestern Bell between October 1 and April 12 as to routing calls placed over the 512 384 number to Lockhart? Did you make any inquiry to Southwestern Bell as to whether those calls would complete over BLS trunks?

1 calls would complete over BLS trunks?

2 A On April 12th, we made a -- I attempted to verify it

3 Q Did you make any inquiry between October 1 and April 12th on that subject of Southwestern Bell?

6 A There was no need to

7 Q Did you make any inquiry?

8 A No

9 Q Mr. Gaetjen, I believe you were asked

11 some questions by Mr McCollough about
12 CenturyTel offering an area-wide calling plan.
13 Do you use the term "area-wide calling plan" to
14 be synonymous with the reverse toll billing
15 arrangement?

16 A Yes
17 Q Okay And you would agree with me that
18 CenturyTel has offered you a reverse toll
19 billing arrangement for the 384 number?

20 A They have offered me their version of
21 an area-wide calling plan, yes.

22 Q And that would be a reverse toll
23 billing arrangement?

24 A That's correct.

25 Q Okay. And under that arrangement you

0081

1 would pay an intrastate access charge to
2 CenturyTel to enable any person placing a call
3 to that 384 number to avoid toll charges? Is
4 that your understanding of the arrangement?

5 A Would you please rephrase that
6 question?

7 Q The arrangement that CenturyTel has
8 offered to you, did you understand it to be an
9 arrangement whereby calls placed to the 512 384
10 number from San Marcos could be called without
11 the caller having to place a 1-plus or incur
12 toll charges?

13 A That's correct

14 Q And did you understand that under that
15 arrangement, ASAP Paging would be billed an
16 intrastate access charge -- a per-minute access
17 charge?

18 A A per-minute usage charge

19 Q You understood it to be a per-minute
20 usage charge?

21 A That's correct

22 Q Do you know what that -- did you
23 inquire what the rate would be?

24 A I believe that the -- it was indicated
25 to me that it would be the same rate that we

0082

1 were currently paying with the area-wide calling
2 plan that we had in effect with CenturyTel

3 Q Okay Did you discuss that with
4 Mr Barker?

5 A No, I did not

6 Q Okay Do you recall any rate being
7 quoted to you by Mr Barker?

8 A I do not recall him quoting a rate to
9 me

10 Q Is it your position that you're
11 unwilling to pay any charge for that calling?

12 A It's my position that it's unnecessary

13 Q And for purposes of the interim relief
14 you're requesting, you would not be agreeable to
15 paying any charge Is that correct?

16 A At the present time, I would say "no "

17 Q Okay Now, you testified, I believe,
18 in connection with questions from Mr McCollough

19 that if you enter into an area-wide calling plan
20 for the Lockhart number you would have to incur
21 charges with every other telephone company, and
22 you quoted rates of \$8,000 to Southwestern Bell
23 and \$5,000 to GTE.

24 Did you ever ask Mr Barker whether
25 there would be any similar charges for a reverse

0083

1 toll calling arrangement that he proposed to
2 you?

3 A No, I did not, but the numbers that you
4 have quoted were \$8,000 for the original NXX and
5 \$5,000 to program it in Southwestern Bell's end
6 offices.

7 Q Did Mr Barker quote you any fee for an
8 NXX?

9 A Not that I recall

10 Q And you would be using your own NXX in
11 this instance, would you not?

12 A If it were possible

13 Q Did he quote you any fee for programing
14 the switch?

15 A No, not that I recall

16 Q And did you ask?

17 A No, I did not

18 Q Mr Gaetjen, could you look at ASAP

19 Exhibit 3, please?

20 A Okay

21 Q And Page 13, I believe, is the March 1
22 letter from Mr Barker to you Could you turn
23 to that document?

24 A Okay

25 Q And I will direct your attention to the

0084

1 second paragraph of that letter "CenturyTel
2 has been informed that your prefix NPA NXX 512
3 384 registered for Lockhart, Texas cannot be
4 accessed over the designated facilities
5 associated with the extended local calling
6 service between San Marcos and Lockhart "

7 And then the second paragraph --
8 "Specifically, at the present time,

9 land-to-mobile calls placed by San Marcos
10 wireline customers are being processed over the
11 toll network to a point within the LATA for
12 termination This method of traffic exchange
13 falls outside the conditions described in the
14 October 8, 2001 letter "

15 Do you see that language?

16 A Yes

17 Q Did you make any inquiry of either
18 Southwestern Bell or CenturyTel after receipt of
19 this March 1 letter as to why those calls
20 weren't being completed over ELCS -- or as to
21 the statement that those calls cannot be
22 accessed over the designated facilities
23 associated with extended local calling service
24 between San Marcos and Lockhart?

25 A I had no knowledge of San Marcos'

0085

1 network or southwestern Bell's network
2 Q My question is, "Did you call anyone
3 with CenturyTel or with Southwestern Bell and
4 ask questions about either of those two
5 paragraphs after March 1 and before April 12th?
6 A I responded to that letter on
7 March 4th
8 Q Did you inquire about why the calls
9 could not be completed over the ELC trunk?
10 A No, I did not
11 Q Did you have any verbal conversations
12 other than -- did you have any verbal
13 conversations with anyone with CenturyTel on
14 that issue at the time of these in early March?
15 A No, I did not
16 Q Now, when you received the March 8th
17 letter -- and I believe it is Page 16 of
18 Exhibit 3 -- the second sentence of that letter
19 says, "We agree with the idea that extended
20 local calling service was to make certain
21 accommodations including but not limited to a
22 local calling arrangement, but disagree
23 conditions applicable to ELCs apply in this in
24 this instance between San Marcos and Lockhart."
25 And then if you will look down in the
0086 next paragraph, the second sentence in that
1 paragraph -- or the first sentence says, "As
2 stated in the March 1 letter, processing of
3 traffic for your Lockhart prefix is being routed
4 as described through the toll network," and then
5 the statement, "Also, your prefix NPA NXX 512
6 384 registered for Lockhart cannot be accessed
7 over the designated facilities associated with
8 extended local calling service between San
9 Marcos and Lockhart." Do you see that?
10 Q Yes
11 Q Did you make any inquiry on that issue
12 of CenturyTel or Southwestern Bell before
13 April 12 after having received the March 8
14 letter?
15 A The only reference that I made to that
16 position was that ASAR -- on the March 4th
17 letter, "ASAR Paging, Inc. only desires that
18 CenturyTel route the ELC calls as any other
19 interexchange carrier call would be routed as
20 per the ELC agreements approved by the FCC
21 "The FCC has ruled that no direct
22 connection is necessary."
23 Q Once again, my question is After you
24 received the March 8 letter, did you make any
25 inquiry of CenturyTel as to that issue?
0087 A No, I did not
1 Q Okay. Now, if you turn back to the
2 March 1 letter, I would like to ask you to look
3 at the second page of that letter. The first
4 full paragraph begins, "Please let this letter
5 serve as notice," and then the last sentence of
6 that paragraph says, "If the parties cannot

7 execute a reverse billing arrangement by
8 March 31, 2002, CenturyTel will be forced to
9 begin assessing toll to the affected end users."
10 And then the paragraph underneath that
11 says, "If ASAR Paging establishes at some point
12 in the future necessary interconnection services
13 for 512 384 in Lockhart and traffic can be
14 appropriately processed via the ELC facilities,
15 CenturyTel would be willing to readress this
16 issue." Do you see that statement?
17 A Yes, I do
18 Q What did you understand that to mean?
19 A That CenturyTel was requesting that I
20 enter into a reverse billing arrangement for
21 these particular calls --
22 Q Now --
23 A -- which I responded to on March 4th
24 Q Okay. My specific question is. When
25 they say "if you establish facilities" -- "the
1 necessary interconnection services in Lockhart
2 and traffic can be processed via the ELCs
3 facilities, CenturyTel will be willing to a
4 readress this issue," did you make any inquiry
5 as to what you would need to do to meet the
6 terms of that paragraph?
7 A I responded on March 4th
8 Q Okay. And then Mr. Barker responds to
9 the FCC
10 Q As per the ELC agreements approved by
11 the FCC
12 calling service between San Marcos and
13 Lockhart," and you made no further inquiry on
14 that issue at that time. Is that correct?
15 A I was waiting for contract negotiations
16 to begin as per my offer on March 4th.
17 Q Did you not say in your letter on the
18 4th that it's not necessary to have an
19 agreement?
20 A That's correct.
21 Q What is it in your letter of the 4th
22 that says you're willing to negotiate?
23 A The second line of the letter says,
24 "ASAR Paging, Inc. is not averse to having an
25 agreement with CenturyTel, but we will not give
0088 up any rights that the FCC has ruled are
1 appropriate under the Communications Act of
2 1996."
3 Q And you thought that was an opener to
4 negotiation?
5 A Well, I'm saying that I wouldn't rule

17 out an agreement
18 Q Okay. So you believe Mr Barker should
19 have called you?
20 A Well, unless I'm totally wrong, my
21 March 4th letter said that we're not averse to
22 having an interconnect agreement
23 Q And then when you got the March 8th
24 letter, he says, "We'd be willing to readdress
25 this issue if you establish ELCS" -- what he
0090
1 believed to be the appropriate ELCS facilities.
2 Is that right?
3 A That's what he's saying, yes.
4 Q And then you made no further inquiry?
5 A That's correct
6 Q Mr. Gaetjen, you testified that ASAP
7 Paging provides service to medical personnel, to
8 sheriffs, to the LCRA, to several electric
9 utilities and donates pagers to various
10 transplant recipients. Do you recall that
11 testimony?
12 A Yes, I do
13 Q Do any of those entities or donors use
14 a 512 384 paging number?
15 A It would be impossible for me at this
16 point to recall specific numbers that were used
17 Q Okay You have no way of knowing who's
18 using those numbers currently?
19 A No, I don't
20 Q And have no specific knowledge that any
21 of those types of entities would be using the
22 number that's in question here?
23 A Not specific knowledge
24 Q Mr. Gaetjen, in ASAP Exhibit 3,
25 Page 11, you indicated that you contacted
0091
1 Mr Kelsaw at the Texas PUC
2 A That's correct
3 Q Did you contact Mr Kelsaw that day?
4 A Yes, I --
5 MR McCOLLOUGH Objection
6 That's not what it says. Mr Kelsaw called him.
7 JUDGE WALSTON: Can you tell me
8 which document you're referring to -- my pages
9 aren't numbered -- just to make sure I'm on the
10 right page?
11 MS BROWN At the top, it says
12 "re ELC for San Marcos area txt " It's an
13 e-mail --
14 JUDGE WALSTON. Oh, it's an
15 e-mail
16 MS. BROWN -- and the top one is
17 dated November 2, 2001
18 JUDGE WALSTON Do want to go
19 ahead and restate your question Frankly, I
20 forgot it.
21 MR STEWART Your Honor,
22 obviously, it sounds like there's a possibility
23 of going down a path where the best witness is
24 sitting over here and not on the stand

25 So I trust that the questions will be
0092
1 relevant and not asked for hearsay that can
2 obviously be avoided
3 JUDGE WALSTON We'll see if we
4 get there She may need to question the
5 witness' understanding whether it's --
6 MR STEWART And I understand
7 that, yes
8 BY MS BROWN
9 Q Did you send Mr Barker an e-mail that
10 referenced Mr Kelsaw at the PUC?
11 A Yes
12 Q So you know Mr Kelsaw at the PUC?
13 A Yes, I do
14 Q And that was in November of 2001?
15 A That's correct
16 Q Okay And then I believe your letters
17 in March -- your letter in March to Mr Barker
18 also was copied to Mr Kelsaw Is that right?
19 A That's correct.
20 Q Did you know that you had a right to
21 seek a remedy from the PUC if you had a dispute
22 about the issue that you were having with
23 CenturyTel?
24 MR McCOLLOUGH Objection, Your
25 Honor It calls for a legal opinion
0093
1 JUDGE WALSTON Well, I think he's
2 testified he's an expert and so he can --
3 MR McCOLLOUGH Well,
4 specifically, the legal opinion is that he has a
5 right -- some undefined right as of yet
6 JUDGE WALSTON He can testify to
7 the best of his knowledge, and, obviously, it's
8 not binding one way or another. He can explain
9 what rights he understood he had
10 A What's the question?
11 BY MS BROWN
12 Q Yes
13 A What is the question?
14 Q Did you know -- you knew Mr Kelsaw at
15 the PUC Right?
16 A That's correct
17 Q Did you believe that if you had a
18 complaint with CenturyTel that you could contact
19 the PUC about that complaint and seek a remedy?
20 A I believe that I could contact the PUC
21 As to whether or not I could seek a remedy was
22 undetermined at that time
23 Q Based on --
24 A Jurisdictional matters
25 Q Okay Did you -- did you -- after you
0094
1 received the March 1 letter, did you make any
2 contact with counsel for the purpose of
3 determining whether you had a right that you
4 could pursue in front of the PUC?
5 MR McCOLLOUGH Objection, Your
6 Honor That violates the privilege

7 MS BROWN I'm not asking for the
8 legal opinion sought I'm asking whether he
9 made contact for the purpose of determining
10 whether he had a remedy I don't want to know
11 whether --
12 JUDGE WALSTON I'll be honest
13 with you I was looking down at this e-mail
14 and -- contacted who?
15 MS BROWN An attorney
16 JUDGE WALSTON Oh, an attorney
17 I thought you were talking about contacting
18 Mr. Kelsaw State your question again Let me
19 hear your question
20 MS BROWN After he received the
21 March 1 letter that says what it says, but it
22 had a deadline in there of March 11 -- after he
23 received that letter of March 1, did he make
24 contact with an attorney to see whether or not
25 he could pursue a remedy in front of the FCC?
1 JUDGE WALSTON I think I'll
2 sustain that objection That does go to what
3 advice he's asking If you just want to ask him
4 "did he make contact with an attorney," you
5 could asked that, but if you go ahead and ask
6 him what he asked the attorney, I think I'll
7 sustain that objection
8 MS BROWN Okay.
9 BY MS. BROWN
10 Q Now, Mr. Gaetten, are you still, after
11 April 2nd of 2002, able to offer paging service
12 to medical personnel, to sheriffs, to the LCRA,
13 to Bluebonnet, to STE and to these organ donor
14 patients -- are you still able to offer paging
15 service to them?
16 A Yes
17 MS BROWN That's all I have,
18 Your Honor
19 JUDGE WALSTON Okay Mr
20 Stewart, were you going to ask any questions?
21 MR STEWART Yes, thank you, Your
22 Honor
23 CROSS-EXAMINATION
24 BY MR. STEWART
25 Q Good afternoon, Mr. Gaetten I'm Roger
1 Stewart with the Commission Staff, and,
2 hopefully, just a few questions to clarify our
3 understanding
4 JUDGE WALSTON Mr Stewart, I
5 think the Court Reporter is plugged into the
6 sound system. So for his tape recorder, you
7 might want to move that microphone over
8 MR STEWART Is this better? Am
9 I getting closer? Thank you
10 BY MR. STEWART
11 Q Earlier, Mr. Gaetten, you referred
12 to -- I believe it was in response to a question
13 from Ms. Brown -- about 150 or so folks in the
14 San Marcos area who need your services And

15 Just so I understand it, would those be
16 subscribers to your service, people who call
17 your subscribers, or.
18 A Those would be the people who actually
19 subscribe to my service.
20 Q Would they all -- would those all be
21 people who subscribe to your service and have
22 512 384 numbers?
23 A That's correct
24 Q Okay Do you not -- okay The numbers
25 that come out of Fentress and Kyle -- Fentress,
1 512 265, and Kyle, 512 580 -- are any of those
2 numbers assigned -- are numbers out of those NPA
3 NXXs assigned to people that you regard -- or
4 will they be -- do you intend for them to be
5 assigned to customers in the San Marcos area?
6 A It's possible It would depend upon
7 the calling scope of those rate centers
8 Q Do you know right now what -- do you
9 have knowledge of whether the Fentress and Kyle
10 NPA NXXs you have have ELCs or are otherwise
11 local to the San Marcos exchange?
12 A They do have some ELC scope to those
13 exchanges
14 Q Okay. The 150 or so subscribers you
15 have in 512 384 in the San Marcos area, are
16 they -- all of them -- paging customers who
17 carry a little -- a small paging device?
18 A That's correct
19 Q What -- okay Do you offer any
20 services other than one-way paging?
21 A Yes, we do
22 Q You do? What services do you offer
23 other than one-way paging?
24 A We offer one-way paging. We offer
25 voice mail with pager notification All of our
1 pagers have an e-mail address, where every pager
2 that we have can be sent a page via e-mail
3 That is part of the service that we
4 provide as part of the paging service. At their
5 discretion, they can also add in that when they
6 receive a page that a copy can also be sent to
7 an e-mail address of their choosing
8 And as technology develops, in an
9 attempt to stay competitive, we will examine any
10 new technologies that become available and see
11 in we can incorporate them into our business
12 plan, so to speak
13 Q Any other -- any other services other
14 than, I guess -- it sounds like those are
15 one-way paging customers, voice mail
16 customers -- it sounds like paging plus voice
17 mail customers and paging plus e-mail customers.
18 Is that a fair breakdown of your
19 customers --
20 A That's correct.
21 Q -- of these services? Just so I
22 understand, references have been made earlier in

23 this proceeding -- and I think the pleadings may
24 have changed -- but references have been made
25 earlier in this proceeding to what I believe --
0099

1 references that you had subscribers who were --
2 at least one subscriber that is an Internet
3 service provider

4 Do you now have any customers that are
5 Internet service providers?

6 A Yes, we do

7 Q What would you describe as the nature
8 of the service that you provide to the Internet
9 service provider?

10 A I'm offering the Internet service
11 providers access via my CMRS privileges from the
12 FCC

13 Q When you offer service to a -- how many
14 ISP customers do you have, roughly? I want to
15 be careful. I don't want to get into a very
16 granular level of detail as to what may be
17 confidential information. Just generally, do
18 you have more than five, for example?

19 A That's a good number

20 Q Somewhere more than five -- ISP?

21 A (Witness nods head affirmatively)

22 Q The service that you provide to those
23 ISPs, it sounds like you're not giving the
24 Internet service provider what I think,
25 hopefully, we could agree would be called "a

0100

1 pager" or "a paging device."

2 I'm sorry That was badly asked When
3 you offer service to an ISP, are you offering a
4 service whereby they receive that service
5 through use of a pager?

6 A It's not necessary to have a pager.

7 Q Can you give me a rough breakdown of
8 the percentage of your subscribers that are
9 Internet service providers as opposed to other
10 types of customers in terms of minutes of use?

11 MR McCOLLUGH Your Honor, if I
12 may? I try real hard not to object to Staff
13 questions, but I'm a little concerned that
14 counsel for Staff is using words like
15 "subscriber" and "customer," and the witness has
16 not necessarily agreed with those

17 Now, it may not be real big for
18 purposes of the interim relief But to the
19 extent that there is any legal connotations that
20 apply to those two particular words, I would
21 like to see that we get them on the record so we
22 can deal with them

23 MR STEWART I appreciate that
24 very much.

25

0101

1 BY MR. STEWART

2 Q Would you have an idea for a definition
3 of "subscriber" or "customer" that would be
4 useful to our discussion, or should I offer up a

5 definition that --

6 A I would be pleased for you to offer a
7 definition

8 (Laughter)

9 BY MR STEWART

10 Q Okay When I say "subscriber," I mean
11 someone who receives service from you And in
12 this context, I'm referring to customers who
13 have a 512 384 Let's call that a 512 384
14 subscriber

15 Do you regard the ISPs as 512 384
16 subscribers?

17 A Yes

18 Q Do you know if any of the ISPs use
19 pagers -- use paging devices with respect to
20 receiving that 512 384 service from you?

21 A I cannot say that they do or they
22 don't

23 Q Okay Fair enough If you wanted to,
24 would you be able to tell whether or not they
25 are using pager devices -- the 512 384

0102

1 subscribers?

2 A I would have to make inquiries to each
3 one of them as to how they are using the
4 traffic

5 Q Okay You would not be able to tell
6 from your own systems or facilities?

7 A No, I wouldn't

8 Q -- or internal measurements? No?

9 Is there any difference between the way
10 that a call -- any difference in the call flow
11 between a call that goes to a pager device and a
12 call that does not go to a pager device -- and,
13 again, with respect to 512 384 subscribers?

14 A Reask the question

15 Q Is there any difference in call flow,
16 and is that call flow a phrase you're familiar
17 with?

18 A Is there any difference in call flow?

19 Q Between -- I'm sorry I didn't know
20 you wanted me to address that Are you familiar
21 with the phrase call "call flow"? Does that --

22 A Vaguely

23 Q Vaguely Can we agree it means roughly
24 physically where the message is transmitted
25 along the network?

0103

1 A Okay

2 Q Can we agree to that for this question?

3 A Yes.

4 Q Is there any difference in call flow
5 between a call that goes to a pager device and a
6 call that does not go to a pager device -- all
7 other calls?

8 A I'm not sure what you mean by
9 "difference "

10 Q I was a little bit vague when I said
11 "other than pager devices," simply because I'm
12 responding to the way you've described the way

13 ISPs may use the service A difference -- in
 14 other words, does a call that goes from a caller
 15 using a San Marcos exchange NPA NXX to a
 16 pager -- a 512 384 pager -- is the call flow any
 17 different than a call that goes from a San
 18 Marcos exchange local number and when it does
 19 not go to a pager or when it goes to an ISP?
 20 A The calls from the 512 384 NXXs come
 21 into my switch, and then my switch routes them
 22 to the entity who's responsible for that number
 23 The numbers that ASAP Paging is using
 24 for their paging subscribers route to my paging
 25 terminal The calls that are going to a
 0104 customer of ASAP Paging for 512 384 numbers are
 1 routed to their equipment
 2 Q Okay And now we've gotten into
 3 something where Mr. McCollough has pointed out
 4 that we might want to be careful about how we
 5 use "subscriber" and "customer"
 6 Are you -- I should try to phrase this
 7 more carefully, but I'm trying to give you the
 8 opportunity to clear it up for me
 9 When you say "customer" here, are you
 10 talking about situations where there's a
 11 subscriber -- 512 384 subscriber -- that is an
 12 ISP, and then "the customer," are you referring
 13 to an end user of the ISP?
 14 A Well, the ISP is my customer
 15 Q Okay And also -- so your customer and
 16 your subscriber -- your 512 384 subscriber
 17 That's correct
 18 A Right?
 19 Q That's correct
 20 Okay What should we refer to as the
 21 ISP's end user? Can we say "ISP end user"?
 22 A Yeah, that would be a good definition
 23 for me
 24 Q Okay Would it be helpful if we used a
 25 board or something else to draw? I'm trying to
 0105 get a clarification as to the difference in the
 1 actual call flow over the network as to a call
 2 that goes from someone in San Marcos -- a local
 3 number -- to a 512 384 pager as opposed to a
 4 call that goes from a 512 384 subscriber
 5 local exchange number to a 512 384 subscriber
 6 that is an ISP, and then on to an ISP end user
 7 And when I say "then on to," I don't
 8 mean to make any legal conclusions about where
 9 the call is terminated That was a long
 10 question Would it help to be able to put this
 11 on a -- draw this on a diagram?
 12 A I don't think so, because, as I said,
 13 the calls come to my paging switch. The calls
 14 that go to ASAP Paging's paging terminal The
 15 calls that go to numbers of ISPs who have
 16 obtained service from ASAP Paging are routed to
 17 their equipment
 18 Beyond that, I have no knowledge of

21 where they route their calls
 22 Q Do the calls that go to ISPs travel
 23 over the wireless portion of your network?
 24 A No
 25 Q No Okay Let me see if I understand
 0106 where some certain facilities are located ASAP
 1 Exhibit 2 is the one-page -- I believe this was
 2 admitted I hope I'm not referring to something
 3 that was not admitted
 4 MR McCollough 2 has been
 5 admitted, I believe
 6 MR STEWART Thank you
 7 BY MR STEWART:
 8 Q ASAP Exhibit 2 -- under the names and
 9 signatures and underlined it says, "X NPA 512"
 10 It says, "a switch identification," and then it
 11 has what I believe is commonly referred to as a
 12 CLTI code -- please tell me if I got that
 13 right -- "AUSTIX"
 14 That's correct
 15 Q -- "92DMK" Do you see that?
 16 A Yes
 17 Q Is that the CLTI code identifier for
 18 the ASAP Paging switch in Austin?
 19 A That's correct.
 20 Q Okay. Is that -- then, shall I say,
 21 associated with -- located behind a Southwestern
 22 Bell switch in Austin?
 23 A That's correct. ASAP Paging's switch
 24 is connected to Southwestern Bell's tandem in
 25 downtown Austin
 1 Q Is it physically collocated?
 2 A No, it is not.
 3 Q It's in the vicinity -- general
 4 vicinity?
 5 A It's several blocks away
 6 Q Several blocks away Okay Thank you
 7 Does ASAP have any other switches in --
 8 A No Let me rephrase that Define
 9 "switch"
 10 I'm an attorney and I think it would
 11 probably be -- you're the expert I would hate
 12 to put a definition -- I could refer -- the best
 13 I would do, to be careful, would be to refer
 14 Newton's Telecom Dictionary or something like
 15 that A standard -- as there such a thing for
 16 this purpose a standard --
 17 In some instances, a paging terminal is
 18 considered a switch because it does terminate
 19 calls
 20 Q Okay
 21 A If that's the definition that you want
 22 to use for the purposes of this discussion, we
 23 have a switch in Amarillo, in Lubbock, in
 24 Midland, in El Paso and in Haltersville besides
 25 Austin.
 1 Q Okay That does help Thanks So

3 those would be the -- could we call them "paging
4 terminal-type switches?"

5 A That's correct

6 Q Okay And then the only other -- I
7 don't know if this is considered a Class 5
8 switch or non-paging terminal switches. You
9 only have one non-paging terminal switch Is
10 that fair to say?

11 A That would be fair

12 Q Okay Is a paging terminal always
13 associated with a transmitter?

14 A I'm not sure what you're asking me

15 Q And I'm not intimately familiar with
16 wireless technology So I may not be using the
17 correct words Is the paging terminal the
18 location from which a call to a paging customer
19 becomes wireless on the other side of the paging
20 terminal, or is a paging terminal from which it
21 goes by wireline means to a tower or transmitter
22 or whatever the terminology is and then becomes
23 wireless?

24 A It can be either way

25 Q Okay Are there -- earlier today -- it

0109

1 may have been in response to questions from
2 Ms. Brown -- I don't recall -- you mentioned
3 that you do not have any facilities in Lockhart
4 Does that mean you have no --
5 obviously, from what you said, you have no
6 non-paging terminal switch or no paging
7 terminal-type switch. Do you have any tower or
8 transmitter or anything like that in the
9 Lockhart exchange?

10 A I think Ms. Brown question was, "Did we
11 have any telephone facilities in Lockhart," and
12 we do not We do have a paging transmitter in
13 Lockhart

14 Q Okay That helps Do you consider a
15 transmitter to not be a telecom facility?

16 A Ms. Brown's question was "telephone
17 equipment "

18 Q Telephone equipment. So when you
19 say --

20 A As I understood her question earlier,
21 it was, "Did I have any physical telephone
22 equipment in Lockhart?"

23 Q And when you said -- what do you
24 understand the phrase "telephone equipment" to
25 mean?

0110

1 A In that particular instance, I
2 understood it to mean, "Did I have any equipment
3 to receive calls "

4 Q Okay When you have -- I'm hoping you
5 can tell me to the best of your knowledge --
6 you've already kind of told me that you don't
7 know what all exactly happens on the Bell
8 network or on the CenturyTel network

9 Can you tell me to the best of your
10 knowledge what happens -- what is the call flow

11 for a call when a San Marcos local exchange -- a
12 call is made from a San Marcos local exchange
13 number to a paging device with a 512 384 number
14 and the paging device is in the San Marcos
15 exchange?

16 A I will defer to CenturyTel from the --
17 when the call is placed to when it hits my
18 equipment After it hits my equipment, it is
19 sent out over the air to fire the transmitter in
20 San Marcos, Texas I have no knowledge of how
21 they route the call

22 Q Tell me -- where does it first hit your
23 network?

24 A It would come to me via Southwestern
25 Bell's tandem in downtown Austin

0111

1 Q So it would first hit your network at
2 your -- can I -- if I could call it "92DMD
3 switch," and then -- if you would either draw or
4 if you could just tell us in words what happens
5 once it hits the 92DMD

6 A It comes to my switch My switch
7 routes it to my paging terminal

8 Q Which paging terminal?

9 A In Austin

10 Q In Austin Okay

11 A My paging terminal routes it to the San
12 Marcos transmitter

13 Q So if I can --

14 JUDGE WALSTON Can I ask a
15 question just to clarify in my mind?

16 MR STEWART Yes

17 CLARIFYING EXAMINATION

18 BY JUDGE WALSTON

19 Q What you're referring to as the San
20 Marcos transmitter, is that the same thing as
21 the transmitter in Lockhart?

22 A All the transmitters are accessed over
23 the air, so that all the transmitters in my
24 whole network, after the page comes into the
25 paging terminal, then all the transmitters are

0112

1 sent the data that they need to transmit that
2 page over the air

3 Q Okay You referred to the San Marcos
4 transmitter, and then earlier we heard about a
5 Lockhart transmitter

6 A Well, earlier, the question was for
7 Lockhart This question was for San Marcos

8 Q Okay I thought his question was a 384
9 number -- a call to a 384 pager

10 MR STEWART To a 384 pager where
11 the pager is located in the San Marcos exchange
12 at the time of this call in question

13 Q Is there a Lockhart transmitter and a
14 San Marcos transmitter?

15 A Yes, sir There certainly is

16 JUDGE WALSTON Okay That's
17 fine I'm sorry to interrupt you, but I was
18 confused on -- I thought maybe there was just

19 one transmitter
20 A There's a transmitter in Lockhart, in
21 San Marcos, Luling, Buda -- one in West Lake
22 Hills here in Austin, one in downtown Austin and
23 then I have approximately 50 transmitters in
24 this area
25

0116 CROSS-EXAMINATION (Cont'd)

1 BY MR. STEWART:

2 Q About 50 transmitters in the Austin
3 LATA? Is that --
4 A They go all the way from Bryan-College
5 Station to Georgetown to Gonzales and Sealy
6 Austin LATA?
7 Q Okay. So it's less than 50 in the
8 Right
9 A
10 Q Okay. Then, just to recap, tell me if
11 I've got it now. The call -- once it hits your
12 92MD switch, it then goes to the Austin paging
13 terminal -- ASAP's paging terminal in Austin --
14 which then -- I don't know if I'll use the right
15 words -- acts as a transmitter -- it turns it
16 into wireless, and it is wirelessly transmitted
17 to a San Marcos transmitter, and then it is
18 transmitted wirelessly again to the pager in San
19 Marcos?

20 A That's correct
21 Q Okay. Could you have do the same
22 thing -- the same -- tell me what the flow is --
23 if that paging device is in Lockhart?
24 A The flow would be the same
25 Q Would the flow be from the 92MD switch
0114 to the paging terminal in Austin to ASAP's
1 transmitter in Lockhart and then on to the pager
2 in Lockhart?
3 A All of the transmitters are accessed
4 over the air the same way. All of the
5 transmitters are keyed simultaneously
6 so at the Lockhart transmitter is keyed
7 to send the page out, the San Marcos transmitter
8 is also keyed
9 Q Okay. So if I can rephrase this in --
10 And so once the call becomes wireless, it's
11 obviously, radio signals are not linear paths
12 transmitted continuously for however far the
13 radio frequency waves will carry, roughly?
14 A That's correct
15 Q So it could reach -- are you saying it
16 could be transmitted or the Lockhart
17 the San Marcos transmitter or the Lockhart
18 transmitter, either way, to go to the paging
19 device?
20 A Both transmitters are keyed in what we
21 refer to as "simulcast," so that when a page is
22 transmitted, it is transmitted, hopefully, at
23 the same time from both transmitters
24 Q And so it simply depends on which

1 transmitter the pager is closer to and
2 disregarding other factors like strength of the
3 transmitter, et cetera, that that will be the
4 transmitter, effectively, from which the pager
5 gets the message?
6 A That's correct
7 Q Okay. Now, if we can kind of go
8 through the call flow for your 512 384
9 subscribers that are ISPs as opposed to those
10 who have pagers. Tell me -- what is the call
11 flow -- again, I guess, we'll say once it hits
12 your 92MD switch in Austin, then what happens?
13 Where does it go after that?
14 A Which one?
15 Q Do you have ISPs in multiple exchanges?
16 Do you have 512 384 subscribers that are ISPs
17 where the point of interconnection between you
18 and the ISP subscriber is not in the Lockhart
19 exchange?
20 A Yes
21 Q In what exchanges in the Austin LATA do
22 you have interconnections with subscribers that
23 are ISPs?
24 A I have the capability of doing them in
25 all of the exchanges
0116 Q Do you have interconnections with
1 subscribers that are ISPs in any exchange other
2 than Austin?
3 A Yes
4 Q Do you have calls that go to 512 384
5 numbers -- maybe I'll say it this way. Do you
6 have any 512 384 ISP subscribers in an exchange
7 other than Austin?
8 A Say that again, I'm sorry. I
9 misunderstand
10 Q Before, I was kind of referring to all
11 of the ISP subscribers, and I just wanted to
12 make it clear that I really meant to say -- your
13 512 384 subscribers that are ISPs -- are any of
14 them interconnected with you somewhere other
15 than at -- somewhere other than the Austin
16 exchange?
17 A Define "Austin exchange." I don't
18 understand the question.
19 Q Well, and maybe I'm not using
20 the right word when I say "interconnection." I
21 don't mean to be confusing. I'm simply trying
22 to understand, and I would certainly accept
23 guidance from Your Honor if Your Honor wanted to
24 help me.
0117 I'm simply trying to determine what the
1 call flow is to go to 512 384 subscribers that
2 are ISPs and where the call would go on from
3 there, if you know.
4 A The call comes to my switch, and my
5 switch is the mechanism that I route the call
6 I route the calls going to ASAP paging to ASAP
7 paging's terminal

9 I route the calls going to an ISP to
10 their equipment
11 Q Okay And, see, what is confusing to
12 me here is that you're referring to ASAP Paging
13 as if it were a customer -- a subscriber?
14 A ASAP Paging's terminal
15 Q So at your switch, your switch switches
16 based on the number being called And if it
17 knows the number being called that belongs to an
18 ISP -- a subscriber that it's an ISP, it does
19 not switch it to your paging terminal It
20 switches it somewhere else Where is that
21 "somewhere else?"
22 A To their equipment.
23 Q And where would their equipment be?
24 A Collocated, in some instances, with my
25 paging terminal.
0118
1 Q The Austin paging terminal, in some
2 cases?
3 A That's correct
4 Q There are some that are not collocated
5 in your Austin paging terminal?
6 A There are some that have equipment at
7 my paging terminal and then also have equipment
8 at their own locations
9 JUDGE WALSTON But as far as you
10 routing it, you route it all -- or it's
11 collocated there as far as what you're routing?
12 A Right. I route it -- or hand them the
13 calls from the back of my switch, and then they
14 take it from there to where they wish it to go.
15 JUDGE WALSTON So all routing to
16 the ISPs would be there collocated -- that you
17 do would be --
18 A I route it from the back of my switch
19 and I hand it to them
20 BY MR. STEWART
21 Q How would you describe the equipment
22 that's collocated -- or how would you describe
23 that equipment? What is the nature of that
24 equipment?
25 A It's at the discretion of the ISP to
0119
1 put in the equipment that they want Some of
2 them have modem equipment in there, and some of
3 them have facilities to route it further
4 Q Do you have software or hardware at
5 your switch that can be used to measure, for
6 example, the number of minutes or of messages
7 that go to your paging terminal as opposed to
8 ISP collocated equipment in your paging
9 terminal?
10 A I believe there is software available
11 to do that
12 Q Does that mean that there is software
13 available, but you do not have it or do not use
14 it?
15 A That means it's too expensive
16 Q All right Thanks So if I were to

17 ask you if you could give me a rough breakdown
18 of the number of minutes or of messages going to
19 your paging terminal or to the ISP collocated
20 equipment, you would not be able to tell me, I'm
21 guessing?
22 A Not at the present time
23 Q Not right now, because you don't have
24 the software or hardware to do that Okay You
25 mentioned earlier that the way you first learned
0120
1 about the problem was that you were contacted by
2 resellers What would be the nature of a
3 reseller? Would a reseller be someone who would
4 be reselling only paging service or paging plus
5 voice mail and paging plus e-mail, or would the
6 reseller also possibly have any connection with
7 ISP services?
8 A D -- all of the above
9 Q All of the above Okay I apologize
10 if this is repetitive, but just so I
11 understand -- in terms of what you have in
12 Lockhart, is there anything other than the
13 transmitter itself -- any facilities?
14 A The transmitter is the only equipment I
15 have --
16 Q Only physical -- okay Did you have to
17 reprogram your switch -- your 92DMD switch -- in
18 any way to accommodate non-paging customers?
19 And when I say "non-paging customers," I mean
20 not paging and not voice mail paging and not
21 e-mail paging -- in other words, ISP customers
22 Did you have to reprogram your switch in any way
23 to accommodate that -- in any way different from
24 adding a paging customer?
25 A When the calls come to my switch, they
0121
1 are routed to the appropriate equipment
2 Q Okay. Have you ever asked any -- have
3 you ever asked Southwestern Bell or CenturyTel
4 for reciprocal compensation?
5 A No, I have not
6 Q Have Southwestern Bell or CenturyTel
7 ever asked ASAP Paging for reciprocal
8 compensation?
9 A Not to my knowledge
10 Q In -- I believe it was the latest
11 exhibit, ASAP No 6 -- do you have that? It was
12 the one -- the communications between an SBC
13 person and I believe David Etzler with ASAP
14 I certainly don't want to get into
15 matters for which this exhibit may not have been
16 admitted, but I want to ask you if you can tell
17 me -- in the top message of those messages,
18 there's a -- in the middle of the message, it
19 says, "I say provided you with a 2/6 or AM
20 number that Century should be sending us the
21 traffic over "
22 Can you tell me what a "2/6 or AM
23 number" is?
24 A The AM number is generally associated

25 with trunk groups or trunks The 2/6 number is
0122
1 codes between the ILECS of now they would route
2 the traffic This particular e-mail was more or
3 less a courtesy from Southwestern Bell telling
4 me how, if I understand it correctly, CenturyTel
5 was supposed to be sending it to Southwestern
6 Bell
7 Q I'm sorry Let me just write down --
8 back to the first part you said -- 2/6 and AM
9 AM, you said, is between --
10 A An AM number is just a number that's
11 associated with a particular set of trunks or
12 trunk groups In this case, I would assume that
13 this would be Bell's Austin tandem, and it may,
14 in fact, be particular to the quote ETC trunks
15 I would have to ask Bell.
16 Q So an AM number could be associated
17 with toll trunks or could be associated with
18 local trunks or with the ETC trunks
19 A It's Bell's internal trunk
20 Q Okay And 2/6 -- you told me that's
21 something between the ILECS or --
22 A That's something that the ILECS would
23 share with each other on how to route the
24 traffic Again, this is information that I'm
25 not privy to
0123
1 Q Okay
2 MR STEWART Thank you very much.
3 MR Gaetjen That's all my questions
4 JUDGE WALSTON Okay
5 MR McCollough, do you have redirect?
6 MR McCollough A very small
7 amount
8 REDIRECT EXAMINATION
9 BY MR McCollough
10 Q If your San Marcos customers were to be
11 moved over to the 222 NXX, would you have to
12 change their paging number -- I mean, the number
13 of people who dialed them with?
14 A Yes, I would
15 do customers generally support having
16 their paging numbers changed?
17 A They, most of the time, are vehemently
18 opposed to it
19 Q Okay And why is that?
20 A They don't like to have to go back and
21 change their stationery, their business cards,
22 and then contact the innumerable people who have
23 their pager number listed in Rolodexes and
24 address books and computer address books. In
25 some cases, it's virtually impossible for them
1 to accomplish that
2 MR McCollough That's all the
3 questions I have
4 JUDGE WALSTON Do you have
5 anything further, Ms Brown?
6 MS BROWN May I ask a question?

7 JUDGE WALSTON Yeah, if there's
8 anything that the Staff brought out that wasn't
9 brought up before.
10 MR McCollough I object to that,
11 Your Honor It wouldn't have been included in
12 the scope of redirect
13 JUDGE WALSTON That's true
14 MR STEWART If your Honor wants
15 Staff to ask more questions to open it back up,
16 I'd be glad to do that
17 JUDGE WALSTON That's okay
18 MR McCollough I'm going to
19 object that yours is outside the scope of
20 redirect
21 JUDGE WALSTON All right
22 MS BROWN: I have one question
23 It's probably going to be more than that. I
24 won't say one
25 0125
1 RE CROSS-EXAMINATION
2 BY MS BROWN
3 Q You say your customers don't like to
4 have their paging number changed Is that
5 right?
6 A That's correct
7 Q Okay. The other option would be that
8 ASAP Paging pay the access rates that CenturyTel
9 would request so that those customers could keep
10 their 384 number Wouldn't that also be an
11 option?
12 A That would be an option that would not
13 be an economic option in this particular
14 instance.
15 Q I thought you told me you didn't know
16 what the rate was?
17 A I told you that they wanted to mirror
18 or try to do the same as the area-wide calling
19 plan that we had in place, which I assume would
20 have been about 5 cents a minute.
21 Q But you didn't ask Mr. Barker that
22 question, what the rate would be, did you?
23 A I did not
24 Q Okay. And you could -- is it possible
25 for you -- if that were the option that was
0126
1 available to you, could you keep hold of those
2 bills so that you would know what you had been
3 billed for that service, and if the Commission
4 were to decide that you shouldn't have to pay
5 that, we would be able to determine what that
6 number was correct?
7 MR McCollough Objection, a
8 compound question
9 JUDGE WALSTON I'm not sure I
10 understand the question.
11 BY MS BROWN
12 Q If we chose the option whereby ASAP
13 Paging could continue to use the 384 number and
14 callers would be able to call that number

15 without incurring a toll charge, but CenturyTel
16 would bill you the associated minutes-of-use
17 rate, is there anything that would keep you from
18 keeping hold of those bills that you would be
19 billed pending the ultimate decision in this
20 case to know what you had been billed?

21 A CenturyTel would bill me. I would like
22 to know at what rate, and I would like to know
23 that there would be, at some point, an expedient
24 resolution.

25 Q But you could keep the billing and we
0127

1 would know what dollar amount was in
2 controversy?

3 A I would prefer not to receive a bill

4 Q That's -- the question is, you could
5 keep hold of those bills?

6 A Yes

7 MS BROWN: Okay. That's all I
8 have.

9 JUDGE WALSTON All right
10 Mr. Gaetjen, I just have one clarifying question
11 for you

12 CLARIFYING EXAMINATION

13 BY JUDGE WALSTON:

14 Q On the equipment that's in Lockhart, do
15 I understand that there's a transmitter in
16 Lockhart? Would you just describe for me very
17 briefly what a transmitter is and what is
18 involved? Is there a tower?

19 A We have a transmitter on -- 152.480 is
20 the frequency. We lease space from a tower
21 owner. Then we install our antenna and a coax
22 line, and the transmitter is placed in the
23 building at the bottom of the tower
24 Then the signal is received. It's
25 started at the paging terminal in Austin. It

0128
1 receives the signal for the page, and then that
2 paging transmitter at Lockhart then keys up or
3 turns on and sends the page out to the area that
4 it can geographically reach

5 Q And I thought I understood you to say
6 that the transmitter that's located here in
7 Austin at your switch, and it transmits out --
8 all of the other transmitters, at least, within
9 its range receive it and retransmit?

10 A All the transmitters that are
11 controlled by the Austin paging terminal are, we
12 hope, keyed simultaneously so that they all
13 would send the same data out at this same
14 millisecond

15 Q And that's because whoever is carrying
16 the pager, you don't know where they are going
17 to be?

18 A That's correct

19 Q Okay. And so whether they would be in
20 Lockhart or San Marcos or wherever, hopefully
21 the message would get to them?

22 A That's the plan

23 JUDGE WALSTON I just wanted to
24 make sure I understood the mechanics of it. I
25 think I do. Okay. All right. Mr. Gaetjen, you
0129

1 can step down

2 MR. McCOLLOUGH We close our
3 direct case, Your Honor

4 JUDGE WALSTON Okay. Is it

5 Mr. Barker we're going to call?

6 MS. BROWN We're going to find
7 out

8 JUDGE WALSTON Why don't we go
9 off the record and take a 10-minute break -- or
10 a 15-minute break?

11 (Brief recess)

12 (Phone connection is made to the
13 witness, James Barker)

14 PRESENTATION ON BEHALF OF

15 CENTURYTEL OF SAN MARCOS, INC.

16 GARY JAMES BARKER

17 having been first duly sworn, testified as
18 follows via telephone

19 JUDGE WALSTON Will you state
20 your full name for the record, please?

21 WITNESS BARKER Gary James

22 Barker, B-a-r-k-e-r.

23 JUDGE WALSTON Okay. Mr. Barker,

24 thank you. And, Ms. Brown, you can proceed

25 And if you need to come up close, that will be
0130

1 fine

2 DIRECT EXAMINATION

3 BY MS. BROWN

4 Q Okay. Gary, if you would tell us if
5 you can't hear?

6 A It might be good to get a little
7 closer. Brook if you can

8 Q All right. I will do that
9 (Phone was relocated)

10 Q Is this better?

11 A I can hear you

12 Q Is that better?

13 A Thanks a lot, Brook. And I do
14 appreciate it.

15 Q Okay. Mr. Barker, can you tell us what
16 your position is with CenturyTel?

17 A I am a Region Manager in Carrier
18 Relations

19 Q And how long have you held that
20 position?

21 A Since June of 2000

22 Q Can you describe briefly your
23 background in the telecommunications industry?

24 A In 1970, I began with Southwestern Bell
25 in Houston as a sales rep. I worked in customer
0131

1 service and in special projects and a variety of
2 things

3 In 1985, I joined a joint venture
4 between Sugar Land Telephone Company and GTE --

5 It's Verizon now -- and T-Mobile -- Metropolitan
6 Company is the paging enterprise -- Houston
7 Houston Paging, and I managed that for nearly
8 nine years, into 1995
9 I ran the business unit, the
10 profit-and-loss, so on and so forth. Beyond
11 that period, I did a little bit of consulting in
12 the telephone industry and they have worked with
13 CenturyTel since June of 2000
14 And can you describe what your job
15 duties are in your current position?
16 My job currently is to negotiate
17 carrier contracts of all sorts -- competitive
18 local exchange carriers, the ILEC contracts of
19 competitive local exchange carriers, commercial
20 and local radio services
21 I get involved in the operator services
22 agreements and traffic-exchange type
23 agreements -- most of the carrier agreements
24 Okay. In your position, did you have
25 discussions and correspondence with ASAP Paging
0132
1 in Texas?
2 Yes, ma'am
3 Did you issue an October 2 letter to
4 Mr. Ted Gaeley of ASAP Paging?
5 Yes, ma'am, I did
6 Prior to that letter, had you had
7 telephone conversations with Mr. Gaeley?
8 As I recall, we had had one or two
9 telephone conversations, I believe.
10 Okay. Did you have reason -- did you
11 also send to Mr. Gaeley a letter dated
12 October 8 of 2001?
13 Yes, I did
14 Can you describe for me the matter in
15 dispute between CenturyTel and ASAP Paging that
16 led to your letter?
17 I had received a request from ASAP
18 Paging, I guess, somewhere approaching the 1st
19 of October. In a conversation, I was informed
20 that ASAP had some new prefixes that they wanted
21 to establish local traffic exchange with
22 CenturyTel or another terminal would be opened
23 up -- the prefixes, and they were prefixes in
24 Lockhart, Fentress and Kyle
25 And from the discussions that we had, I

13 on this -- October 2nd into October 8th -- it
14 was mentioned that the EICS or the extended
15 local calling service -- that the calls -- it
16 was suggested that they might be routed or
17 exchanged over that facility. After some
18 review, CenturyTel decided that we would be
19 willing to process that traffic over the EICS
20 trunk group, and we attempted to do that
21 And our technical folks informed me
22 that we were not able to --
23 MR. MCCOLLUGH: Objection, Your
24 Honor. Objection. This is far outside the
25 scope of the question, which I believe had
0134
1 something to do with discussions with ASAP
2 Paging.
3 JUDGE WALSTON: Mr. Barker, I
4 don't know how much you can hear. If you hear
5 someone making an objection, you need to --
6 WITNESS BARKER: Could I ask you
7 to get a little bit closer to the phone? I
8 apologize.
9 JUDGE WALSTON: If you hear
10 another attorney make an objection, if you could
11 stop and let the attorney make the objection. I
12 believe it was that your testimony was
13 beyond the scope of the question that was asked.
14 Try to listen to the question that's
15 being asked and just answer that question if you
16 can. Okay? Could you hear me?
17 WITNESS BARKER: Yes, sir. I can
18 hear you. Okay. I didn't hear the question.
19 BY MS. BROWN:
20 Q Okay. I'll ask you another one. Was
21 there some question in the beginning between
22 CenturyTel and ASAP as to whether or not the
23 codes for which ASAP wanted local dialing, in
24 fact, qualified as EICS codes?
25 A It was my understanding -- and the
0135
1 thing that I had asked about was the local
2 exchange routing guide. The local exchange
3 routing guide, for me, is kind of a -- it's a
4 guide, and I rely upon information that I get
5 from others or even from other carriers.
6 It's my understanding that these
7 prefixes were registered -- the codes were
8 registered for each of these other cities that
9 we're mentioning here -- Kyle, Lockhart and
10 Fentress -- and that we did -- it was my
11 understanding that we did have the EICS trunk
12 groups to those locations, and we were willing
13 to go ahead and open up that traffic
14 JUDGE WALSTON: Hang on. Let her
15 ask you -- Mr. Barker?
16 WITNESS BARKER: -- to exist in
17 terms of facilities be it between Southwestern
18 Bell and ASAP or whoever.
19 JUDGE WALSTON: Mr. Barker?
20 Mr. Barker?